United Nations CMW/C/SR.272

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
20 April 2015

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-second session

Summary record (partial)* of the 272nd meeting
Held at the Palais des Nations, Geneva, on Monday, 13 April 2015, at 10 a.m.

Chairperson: Mr. Carrión Mena

Contents

Opening of the session

Introductory statement by the Representative of the United Nations High Commissioner for Human Rights

Adoption of the agenda

Consideration of reports submitted by States parties under article 73 of the Convention

Dialogue with national human rights institutions and non-governmental organizations

* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages of the United Nations. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-07764 (E) 150415 200415

1507764

Please recycle

The meeting was called to order at 10.05 a.m.

Opening of the session

1. **The Chairperson** declared open the twenty-second session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Introductory statement by the Representative of the United Nations High Commissioner for Human Rights

2. **Mr. Salama** (Director of the Human Rights Treaties Division, Office of the United Nations High Commissioner for Human Rights (OHCHR)), after welcoming the Committee members on behalf of the United Nations High Commissioner for Human Rights, said that they were meeting at a time when the plight of migrant workers was attracting attention. Figures released by the International Organization for Migration showed that almost four times as many migrants and asylum seekers had arrived in Italy in 2014 as in 2013, while migrant flows were also increasing across the Americas, the Middle East, Africa and the South-East Asian nations. However, despite the migration crisis, durable solutions were still not being found.

3. Since the start of his mandate, the High Commissioner for Human Rights had given priority to the issue of migrants' rights. Moreover, in his statement on International Human Rights Day in 2014 he had warned against the dangers of negative depictions of migrants and asylum seekers. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the twenty-fifth anniversary of which was being celebrated that year, provided a comprehensive human rights framework covering all stages of the migration process. All stakeholders must therefore redouble their efforts to ensure that the rights of persons entitled to protection under the Convention were observed.

4. The General Assembly of the United Nations had recently adopted a number of resolutions relating to the protection of migrants. Resolution 69/167 acknowledged the Committee's contribution to protecting migrants and again called upon States to consider signing, ratifying or acceding to the Convention. Resolution 69/187 encouraged States to consider the best interests of migrant children and came as the Committee was itself considering a general comment on children in the context of migration. Resolution 69/229 recognized the multidimensional nature of international migration and underlined its importance in the development of countries of origin, transit and destination.

5. As the Secretary-General of the United Nations had stated in his Synthesis report on the post-2015 sustainable development agenda and his message for International Migrants Day, it was vital that no one, including migrants, be left behind in the new framework for development after 2015. At a time when United Nations Member States were embarking on negotiations towards adopting a post-2015 development agenda, it was important to ensure that goals, targets, indicators and accountability frameworks were closely aligned with human rights norms. The Special Rapporteur on the human rights of migrants had also advocated for the inclusion of the human rights of migrants in the post-2015 development agenda and had urged the European Union and United Nations Member States to establish a coherent and comprehensive migration policy – one which celebrated mobility and diversity while recognizing the real needs of the labour market and of migrants themselves.

6. In addressing the Human Rights Council, the High Commissioner for Human Rights had called for humane responses to the migration crisis, deploring the discrimination and ill-treatment migrants had to suffer and recalling that human rights were not reserved only for citizens or persons holding a visa but were the inalienable right of every individual regardless of location or migration status. In a joint statement for International Migrants

Day, the High Commissioner for Human Rights and the Director-General of the International Labour Organization had also underlined the importance of ensuring that migrants had access to education, health care and housing, because equality and non-discrimination were drivers of sustainable development.

7. The Committee had been provided with an additional three days of meeting time as part of the treaty body strengthening process, but it had also been affected by cuts in OHCHR extrabudgetary resources. OHCHR intended to focus its support in 2015 on reaching the targets set forth in General Assembly resolution 68/628. Strengthening the treaty bodies system required a reduction of backlogs and an increased harmonization of working methods, and the Committee had already taken a number of steps in that regard, such as simplified reporting procedures and largely paperless sessions. It was to be hoped that the Committee would continue to lead by example, showing other committees the road to greater efficiency; it should also look at ways to strengthen the role of country rapporteurs and enhance dialogue with States parties.

8. The General Assembly had asked the Secretary-General to submit a report every two years on the implementation of resolution 68/628. The reports would serve to ensure that committees met their budgetary targets in terms of reports reviewed and backlogs reduced, and they would be used as part of a review of the entire treaty body system scheduled for 2020. The resolution also requested chairpersons of committees to keep States updated on the implementation of the Addis Ababa Guidelines on the independence and impartiality of members of the human rights treaty bodies and the Committee should consider establishing an internal mechanism to track its own progress in that regard.

9. OHCHR would continue to champion the rights of migrants and to support the Committee and the application of the norms and standards set down in the Convention.

Adoption of the agenda (CMW/C/22/1)

10. *The agenda was adopted.*

Consideration of reports submitted by States parties under article 73 of the Convention

Dialogue with national human rights institutions and non-governmental organizations

11. **Mr. Tashbulatov** (Central Asia on the Move) said there were gaps in Kyrgyz legislation relating to the rights of migrant workers. The International Migration Act defined migrant workers as persons in a regular situation employed in a State where they were not citizens; therefore, migrants in an irregular situation were deprived of legal remedy. Moreover, according to article 18 of that Act, the rights and obligations provided for under Kyrgyz legislation were dependent on a formal employment contract in the State of employment.

12. There was not enough information about consular services and many Kyrgyz migrant workers were unprepared for their departure, which put them in a vulnerable position. Most were not aware of their legal rights or the possibility of approaching consular offices for assistance.

13. The spread of disease among migrant workers due to limited access to health care in host countries was an ongoing problem. Few migrant workers underwent a medical examination or obtained health insurance before arriving in the State of employment. Moreover, employers of migrant workers in an irregular situation in the Russian Federation did not pay for mandatory health insurance, as required by Russian legislation.

14. Contrary to the requirements of the Convention on the Elimination of All Forms of Discrimination against Women, there were no women staff members in the consular department of the Kyrgyz Embassy in Moscow. That could create a psychological barrier for women who were victims of violence or needed to communicate personal information from approaching consular offices for assistance.

15. Kyrgyz consular regulations did not provide for measures to help citizens exercise their voting rights. For example, Kyrgyz citizens residing in the Russian Federation were not registered with the consulate and thus not on the electoral roll.

16. Measures by the Ministry of Labour, Migration and Youth to protect the rights of Kyrgyz citizens abroad and to prepare migrants for departure were either not fully implemented or ineffective. It had been suggested that the Ministry should be disbanded and its functions delegated to other government agencies; however, that would fragment and destabilize migration policy.

17. In view of the foregoing, he recommended that the Government should amend the legal definition of "migrant worker", establish a separate authority to deal with labour migration issues and devise State programmes to prepare migrant workers for departure. It should encourage host countries to ratify the Convention, incorporate its provisions in national legislation and increase NGO involvement in consultative bodies in Kyrgyzstan. The Government should also improve access to consular services and legal assistance for Kyrgyz citizens living in the Russian Federation and increase the representation of women, including lawyers, in diplomatic missions and consular offices. It should strengthen measures to ensure contact with and legal assistance for persons in detention, in accordance with the Vienna Convention on Consular Relations and the related convention between Kyrgyzstan and the Russian Federation.

18. Kyrgyz citizens should be provided with comprehensive information, in both Kyrgyz and Russian, about consular services and legal assistance available and about their rights to enter, stay and work in the Russian Federation. There should be greater cooperation with local authorities on protecting the legal rights and interests of Kyrgyz citizens and on follow-up in the event of violations. Attention should be focused on effectively guaranteeing Kyrgyz citizens the rights stipulated under host-country legislation and international agreements, and criminal and judicial proceedings involving Kyrgyz citizens should be monitored. Lastly, cooperation with the media in host countries should be improved to reduce the stigmatization of migrant workers.

19. **Mr. Taghizadeh** recalled that Kyrgyzstan would be joining the Eurasian Economic Union in May 2015, giving all its citizens the right to move freely between the countries in that Union. While the Russian Federation currently received the vast majority of migrants from Kyrgyzstan, it would be useful to have information on other countries in the Union that received flows of Kyrgyz migrant workers.

20. **Mr. Brillantes** said that, according to the initial report of Kyrgyzstan, the Government had conducted extensive consultations with NGOs prior to reporting. He asked whether Mr. Tashbulatov's organization had been consulted and, if so, whether the issues mentioned in the current meeting had been brought to the State party's attention during those consultations. Which recommendations had been made to the Government and had any of them been addressed in the State party report?

21. **Mr. Ceriani Cernadas** asked whether the State party had disaggregated statistics relating to the rights under the Convention, specifically in relation to Kyrgyz migrants who were being detained in or had been deported from the Russian Federation and to minors. Recalling that the Russian Federation was not a party to the Convention, he asked whether the rights covered by the instrument were safeguarded by any bilateral agreements. If so, what specific programmes were provided by the Kyrgyz consular authorities to persons in

detention or persons undergoing deportation proceedings or persons whose labour rights had been violated? Referring to the lack of legal remedy for persons in an irregular situation, he asked whether that applied only to labour rights or to other rights relating to the deprivation of liberty too.

22. **Mr. Tashbulatov** (Central Asia on the Move) said the fact that Kyrgyzstan was joining the Eurasian Economic Union would not resolve all the issues he had mentioned. The Russian Federation had special detention facilities for migrant workers who were subject to administrative proceedings, however, their detention conditions were much worse than those of people undergoing criminal proceedings. It was highly unlikely that the situation would improve in the near future. His organization had advised the Kyrgyz Government to establish relations with countries other than the Russian Federation in order to open up new labour markets to Kyrgyz migrant workers. Numerous consultations had been held with the Government during which the recommendations had been discussed and his organization continued to provide updates on its monitoring and research activities. However, many issues had not yet been resolved, including that of the need for female consular staff.

23. The requested statistics were not currently available but could be provided at a later date. Thanks to various bilateral agreements, blacklisted individuals had been permitted to return to the Russian Federation to work. For more than two years, his organization had been monitoring Kyrgyz citizens' access to consular services in the Russian Federation and Kazakhstan and the high quality of work carried out by Kyrgyz consular staff might well be the result of such monitoring. However, while such staff did their best to ensure the rights of detained or deported persons, their efforts were not always successful.

The discussion covered in the summary record ended at 11 a.m.

United Nations CMW/C/SR.273

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
29 April 2015

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-second session

Summary record of the 273rd meeting
Held at the Palais des Nations, Geneva, on Monday, 13 April 2015, at 3 p.m.

Chairperson: Mr. Carrión Mena

Contents

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Kyrgyzstan

This record is subject to correction.

Corrections should be submitted in one of the working languages of the United Nations. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-07803 (E) 200415 290415

1507803

Please recycle

The meeting was called to order at 3.25 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Kyrgyzstan (CMW/C/KGZ/1; CMW/C/KGZ/QPR/1)

1. *At the invitation of the Chairperson, the delegation of Kyrgyzstan took places at the Committee table.*

2. **Ms. Iskakova** (Kyrgyzstan), introducing her country's initial report, said that Kyrgyzstan was in the process of implementing two important programmes on labour migration: the national employment promotion and international labour migration regulation programme through 2020, and the programme to combat trafficking in persons in the Kyrgyz Republic, 2013–2016. Foreign nationals, including migrant workers, enjoyed the same rights as Kyrgyz nationals, under the Constitution and international agreements, the only exceptions being voting rights and mandatory military service. The Constitution provided for all the rights listed in the Convention including, the right to freedom of association, to strike, to freedom of labour, and to rest. Everyone had the right to free basic general and secondary education from State educational institutions. Men and women had equal rights and freedoms, as well as equal opportunities to enjoy them. In addition, the right of Kyrgyz nationals to return freely to their homeland was not restricted in any way. Human rights and freedoms could be restricted under the Constitution and laws only in the interests of national security, public order, public health and morals, and the rights and freedoms of other individuals. Slavery, human trafficking, forced labour and child labour were prohibited. Everyone had the right to freedom of movement, the freedom to travel beyond the borders of Kyrgyzstan, and the freedom to apply to international human rights bodies when their rights and freedoms were violated. If human rights bodies acknowledged such violations, Kyrgyzstan would take measures to restore them or offer reparation for any harm caused.

3. National State policy on international labour migration was in keeping with international human rights law and standards for the social protection of migrant workers, and national interests vis-à-vis international labour migration measures. Under a law establishing a visa exemption scheme for nationals of certain States, Kyrgyzstan had introduced a visa exemption scheme for up to 60 days for nationals of 44 States. There was a quota system regulating the number of foreign workers in Kyrgyzstan; the quota was set each year by the Government depending on State interests and the internal labour market situation. The Ministry of Labour, Migration and Youth divided the quota between employers seeking foreign labour and stateless persons, according to their contribution to the national economy. Over 90 per cent of the quota of 12,990 foreign workers established for 2014 had been filled, which was an increase of over 14.5 per cent on the figures for 2013. Furthermore, certificates had been issued to a number of foreign construction site managers, exempting them from the need for a work permit.

4. Over 50 per cent of foreign workers in Kyrgyzstan were employed in Bishkek with the rest working in other provinces, attesting to the efforts made by local bodies to allow foreign nationals to work in the country. A quota for foreign private entrepreneurs had been set for 2014 and the majority of such persons had worked in the capital. In terms of the job sectors in which foreign nationals had been employed in 2014, over 50 per cent had worked in industry and construction, and the rest in such areas as communications, transport, energy, education, health and agriculture and private enterprise. With regard to the country of origin of foreign workers, more than 70 nationalities were represented and there had been an increase in persons arriving from China and Turkey, in addition to countries of the Commonwealth of Independent States.

5. Migrant workers and members of their families had unlimited access to health-care, education, and social welfare services. Moreover, taxation of migrant workers was the same as for Kyrgyz nationals, whereas social security payments were lower for as migrant workers than for Kyrgyz nationals. Ethnic Kyrgyz returning to their country of origin for political and economic reasons from neighbouring countries were also considered as migrant workers. The State offered favourable conditions to help such persons resettle in Kyrgyzstan, allowing them to work without a permit and simplifying the process for acquiring citizenship, resulting in over 40,000 ethnic Kyrgyz taking citizenship between 1994 and 2014. A small number of other foreign nationals also acquired permanent residence permits each year. The permits were valid for five years and could be extended. Furthermore, Kyrgyzstan also received refugees, who were mainly from Afghanistan.

6. Kyrgyzstan was committed to protecting the rights of Kyrgyz nationals working abroad. The majority of such persons were working in the member States of the Eurasian Economic Union (EAEU), particularly in the Russian Federation and Kazakhstan. The efforts undertaken by Kyrgyzstan to join the Union would significantly facilitate the procedures for Kyrgyz migrant workers to live and work in the above-mentioned countries. For example, under the Treaty on the Eurasian Economic Union, employers could hire migrant workers irrespective of fixed labour quotas, migrant workers did not need work permits for EAEU member States, and their period of residence was determined by the length of the work contract concluded with their employer.

7. The unemployment rate in Kyrgyzstan stood at just over 8 per cent. Over 40 per cent of the unemployed were young persons. In 2014, employment services had helped to find employment for almost 50,000 persons, which was an increase on the figures from the previous year. Young persons accounted for over 40 per cent of that number. Moreover, foreign nationals were entitled to use State employment services.

8. **Mr. Brillantes** said that the State party's efforts to protect the rights of migrant workers were noteworthy, particularly given that Kyrgyzstan had close ties to the Russian Federation and Kazakhstan, neither of which was party to the Convention. However, there were still areas of concern. For instance, during the universal periodic review (UPR) of Kyrgyzstan it had been observed that migrant children or children born of migrants were not necessarily registered by the State, which could lead to a violation of their educational rights. The UPR had also drawn attention to the phenomenon of "social orphans", i.e. children whose parents had migrated without them for economic reasons, leaving such children in a vulnerable position.

9. With regard to women, he noted the concern of the Committee on the Elimination of All Forms of Discrimination against Women about the high number of migrant women working in the informal sector but with no labour law enforced to protect them. There was also an absence of legislation to enforce equal pay and prohibit the sexual harassment of female workers. Furthermore, the State party had not ratified the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189), and the situation regarding maternity leave was unclear. The Committee against Torture had also raised the issue of bride-kidnapping, which was a widespread cultural practice in the State party; he wished to know whether Kyrgyz migrant workers, or even foreign nationals in Kyrgyzstan, were affected by the practice.

10. He asked how the numerous International Organization for Migration projects were benefiting the State party, and why migrant workers of Uzbek ethnicity were not being protected both outside Kyrgyzstan and on their return to the State party. As for outsourcing, it could lead to the violation of rights because migrant workers were officially beholden to the outsourcing company and not to the company where they carried out their duties, meaning that the latter had no contractual obligations towards its employees. Moreover, he wished to know what steps were being taken to combat the rise in xenophobia and hate

crime against Kyrgyz nationals in the Russian Federation and whether the State party had demanded that the Russian Federation improve the detention conditions of foreign nationals, and provide free legal assistance for detainees. He sought an explanation as to why training programmes and measures to disseminate the Convention had not been carried out by the State party.

11. He suggested that if migrant workers found themselves in conflict with the law, it would be more useful for the State party to notify the relevant diplomatic or consular mission rather than the foreigners themselves. He would welcome clarification on specific legislation and international agreements adopted regarding the provision of urgent medical care for all persons regardless of nationality. He asked whether certain unions prohibited the membership of foreign workers, when the declarations under articles 76 and 77 of the Convention were going to be made, and exactly which body would be responsible for the declarations. He asked how minors, particularly those in an irregular situation, were able to return to their country of origin. He enquired what the prospects were of Kyrgyzstan concluding bilateral agreements with such countries as the Russian Federation, Kazakhstan, and Azerbaijan. Finally, he asked whether the delegation might wish to comment on the 29 recommendations listed in an alternative report by NGOs and on whether the State party had been aware of the recommendations during its consultations with NGOs and civil society.

12. **Mr. Taghizadeh** asked whether the provisions of the Convention were widely applied in Kyrgyzstan and to what extent its legislation provided guidance for judges on those provisions. He asked whether steps were being taken to remedy the contradiction between the definition of a migrant worker in the Convention, which did not distinguish among migrant workers on the basis of their legal status, and the definition of a migrant worker in Kyrgyz legislation, which drew such a distinction. It was difficult to discuss the protection of the rights of migrant workers until that contradiction had been resolved.

13. He wished to know how the State party would continue to fulfil its obligations towards migrant workers under the Convention in the new legal context following its planned entry to the Eurasian Economic Union in May 2015. It was important that migrants and members of their families and administrative bodies in the State party had a clear understanding of the rights under the Convention. In order to ensure the broad application of the instrument, the State party should devise a plan to explain its provisions to legal and judicial officials, officials at the Ministry of Labour and other professionals who dealt with migration issues, including at the local level.

14. The statistical data provided in the State party's initial report was not sufficiently detailed. Data on incoming, outgoing and transiting migrants should be disaggregated by sex, age and profession. Information on Kyrgyz migrants detained in other countries should include the reasons why migrants were detained and the types of offences committed.

15. **Mr. El-Borai** said that the legal framework in Kyrgyzstan was such that it was difficult to establish whether Kyrgyz legislation was compatible with the Convention. He asked for clarification of the legal status of a ratified treaty in the State party.

16. **Mr. Kariyawasam** asked whether the regional phenomenon of drug trafficking, for which Kyrgyzstan was a transit country, involved migrant workers and, if so, what steps were being taken to address that problem. Given the range of ethnic groups in Kyrgyzstan, he would welcome information on the ethnic origin of Kyrgyz migrant workers. He wished to know whether Kyrgyz migrants settled in their countries of destination or returned to Kyrgyzstan. While applauding the fact that Kyrgyz migrant workers residing abroad were able to vote in Kyrgyz elections, he wondered whether there was any connection between migrant workers' ethnic origin and their low levels of electoral participation.

17. **Mr. Haque** asked how the significant numbers of migrants entering and leaving Kyrgyzstan and national demographic trends impacted on the implementation of the Convention, in particular how the State party balanced the need to ensure the rights of both Kyrgyz migrant workers abroad and migrant workers living in Kyrgyzstan. He would welcome information on how entrepreneurs and highly skilled migrants who came to Kyrgyzstan contributed to the Kyrgyz economy and how remittances to Kyrgyzstan were managed. Were special measures in place to ensure that families were able to make the best possible use of remittances? He wished to know whether there were any foreign nationals in an irregular situation in Kyrgyzstan and how such cases were handled. He would also welcome information on the impact of trafficking in persons in the State party. Given the long border that Kyrgyzstan shared with China, he wished to know more about the flow of migrants between the two countries and the impact of those migratory flows, particularly since China was not a party to the Convention.

18. **Mr. Ceriani Cernadas** said that he would welcome more information on the policies of the Ministry of Labour, Migration and Youth and on whether it was conducting research into the causes of labour migration from Kyrgyzstan. The delegation should explain the reasons for the high rates of unemployment in certain parts of the country. The delegation should also provide information on the protection available to migrant workers who wished to travel to Kyrgyzstan and explain how policies on access to health and education for migrant workers and their families were coordinated at the institutional level.

19. He asked how the current quota system met the needs of migrant workers coming to Kyrgyzstan; how it dealt with migrants in an irregular situation; how it responded to migratory flows; and how it addressed the situation of migrants in both the formal and informal sectors. In the light of reports received about violent attacks on Chinese migrants in Kyrgyzstan, he wished to know what steps were being taken to combat xenophobia and highlighted the need for awareness-raising campaigns to accompany the implementation of regional agreements on labour mobility.

20. He wished to know what measures were in place to protect the children of migrant workers who remained in Kyrgyzstan while their parents worked abroad, and what protection was given to children who remained abroad, most commonly in the Russian Federation, when a migrant worker parent was repatriated to Kyrgyzstan. Referring to information available about the high rates of maternal mortality among female migrant workers in Kyrgyzstan, he asked whether that situation had changed.

21. **Ms. Ladjel** said that she would welcome more information concerning the general impact of the Convention on migration in Kyrgyzstan, and in particular on its economic development. She asked how high unemployment among young people in Kyrgyzstan affected migratory flows and how the youth labour force was used in Kyrgyzstan. In that connection, it would be useful to have more information on the quotas established for migrants. Referring to the relationship between the Migrant Workers Convention, the Convention on the Rights of the Child and the Beijing Declaration and Platform for Action, she expressed concern about the phenomena of trafficking in persons and "social orphans". It would be interesting to hear the delegation's views on such matters and on their connection with progress made in women's empowerment and the protection of children in general.

22. **Mr. Nuñez-Melgar Maguiña** said that it would be useful to have more information on the situation of cross-border workers and their status in Kyrgyzstan. He asked how private intermediary agencies used by migrants were regulated and, given the high number of Kyrgyz workers in the Russian Federation, whether there was an agreement with the Russian Federation on regulating employment agencies. He wished to know: whether consulates provided adequate assistance to seasonal workers facing expulsion; how the rights of seasonal workers were safeguarded; and whether mechanisms were in place to

help seasonal migrant workers to get back into the labour market on their return to Kyrgyzstan.

23. **Mr. Tall** said that the State party's report should have been more detailed. More information was required on the implementation of the Convention in practice and specific obstacles thereto, as well as on the typical problems faced by migrant workers in Kyrgyzstan and Kyrgyz migrant workers abroad. He wondered whether the lack of information provided by the State party meant that there were no obstacles to its implementation. He asked whether the police, judiciary and social workers were sufficiently familiar with the Convention.

24. With reference to paragraphs 14 and 15 of the report, he asked what the rationale had been for the agreement between Kyrgyzstan and the Russian Federation to set up a system for labour migration and what action had been taken in that regard. He said that he would appreciate information on specific measures that might lead to ratification of the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Domestic Workers Convention, 2011 (No. 189).

25. He asked where migrants were detained for administrative offences, such as possessing irregular or expired papers. Since there were no specific detention facilities for migrants in Kyrgyzstan, he wondered whether they were held alongside detainees who had committed criminal offences. He asked in what circumstances migrants had access to legal assistance, including free assistance from a lawyer. Information should be provided on how foreign nationals who were in Kyrgyzstan temporarily could access health care.

26. **Mr. Pime** said that the Committee had received reports that migrant workers and members of their families suffered discrimination in the areas of employment, health and education in Kyrgyzstan. He invited the delegation to comment on those reports and asked what measures had been adopted to remedy the situation. He wished to know whether the privileges accorded to ethnic Kyrgyz migrant workers might be considered as discrimination.

27. **Ms. Castellanos Delgado** asked what rights, assistance and protection were granted to child migrants from Kyrgyzstan, whether they were helped to return to the country and what conditions they experienced on their return.

28. **The Chairperson**, speaking as a member of the Committee, asked what efforts had been made to ensure that citizens abroad could vote and to generate more reliable statistics, thus permitting more effective compliance with the Convention. He asked whether there was a policy that allowed better use to be made of remittances so as to benefit the Kyrgyz economy and how corruption affected compliance with the Convention. Lastly, he wished to know whether the State party had signed multilateral or bilateral treaties regarding migration.

The meeting was suspended at 4.50 p.m. and resumed at 5.35 p.m.

29. **Ms. Toktalieva** (Kyrgyzstan) said that providing assistance to Kyrgyz migrant workers was a priority for the country's consular services, particularly in the Russian Federation, which was home to around half a million Kyrgyz migrant workers of a total of more than 700,000. The State party's planned entry into the Eurasian Economic Union would represent a new phase in efforts to assist Kyrgyz migrant workers in the Russian Federation. She provided statistical data on the number of Kyrgyz migrant workers who had been charged with various criminal offences in the Russian Federation, noting that the majority were men. When Kyrgyz citizens died abroad, the Kyrgyz authorities took charge of all relevant procedures, including repatriating their remains and processing the necessary documentation. The conditions in detention centres where Kyrgyz migrant workers were

held were not always satisfactory, and Kyrgyz consular officials often visited those centres to provide assistance to Kyrgyz citizens.

30. Kyrgyz citizens working in the Russian Federation could follow a simplified procedure to apply for Russian citizenship; to date, approximately 4,500 persons had done so, while 75,000 had received a work permit. Statistics on migration to the Russian Federation disaggregated by gender and age indicated that the majority of Kyrgyz migrant workers were men aged between 30 and 39 and women aged between 18 and 29.

31. Efforts to protect the rights and interests of Kyrgyz citizens abroad were pursued by consular officials, who dealt with complaints from Kyrgyz citizens with assistance from representatives of the Ministry of Internal Affairs. More consular and Ministry of Internal Affairs offices had recently been opened in the Russian Federation. A number of draft bilateral agreements on a range of aspects concerning labour migration were being considered, including consular conventions with Italy and the United Arab Emirates, agreements on the transfer of prisoners and agreements on the legal status of the Kyrgyz Ministry of Labour, Migration and Youth in the Russian Federation. Additionally, there were two main migration agreements within the Eurasian Economic Union: one addressing the legal status of migrants and their families and the other providing for cooperation in combating illegal migration.

32. Citizens were assisted in finding employment in neighbouring countries and further afield by a centre that provided information and advice. In addition, the centre monitored the migration flow to the Russian Federation, with which Kyrgyzstan had reached an agreement regarding the employment of Kyrgyz citizens in State and private entities in different sectors. Although the conditions of those migrant workers varied, generally speaking, they had contracts that guaranteed decent conditions and reduced the risk of violations of their rights. Similar agreements were also being made with Kazakhstan prior to the State party's entry into the Eurasian Economic Union.

33. While xenophobia remained a cause for concern, the number of cases was falling. State policy on international labour migration was based on a commitment to international human rights law and standards for the social protection of migrant workers, in line with national interests. Studies conducted into labour migration indicated that it was often seasonal and that most Kyrgyz migrant workers migrated to the Russian Federation and Kazakhstan. Kyrgyz migrants working in the Russian Federation were the most vulnerable group of migrant workers and consistently exceeded the quota set by that country. The current system used by the Russian Federation for granting work permits should improve following the State party's entry into the Eurasian Economic Union.

34. While labour migration had a positive impact on Kyrgyzstan, for example by considerably reducing unemployment rates and generating income for the country through remittances, there were also disadvantages in terms of demographic imbalances, the loss of highly qualified workers and adverse effects on the family unit. There had been cases where the children of migrant workers had been abandoned in the Russian Federation; the Ministry of Social Development was working to ensure that no Kyrgyz child was left behind, and some children had been taken into care.

The meeting rose at 6 p.m.

United Nations CMW/C/SR.274

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
29 April 2015

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-second session

Summary record of the 274th meeting
Held at the Palais des Nations, Geneva, on Tuesday, 14 April 2015, at 10 a.m.

Chairperson: Mr. Carrión Mena

Contents

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Kyrgyzstan (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages of the United Nations. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-07804 (E) 270415 290415

1507804

Please recycle

The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Kyrgyzstan (continued) (CMW/C/KGZ/1; CMW/C/KGZ/QPR/1)

1. **Mr. Sarybaev** (Kyrgyzstan) said it must be remembered that Kyrgyzstan was one of only a few States in the region that was a party to the Convention, which was an indication of its commitment to ensuring human rights and freedoms. Labour migration was not only a means of distributing labour resources but also an opportunity to develop international relations and internal affairs.

2. In response to the concern expressed about migrant women working in the informal sector, he said that the Labour Code established measures to ensure that employers respected workers' rights. There was a State environmental and technical inspectorate and an oversight office attached to the Office of the Procurator-General which ensured that employers complied with the law. Moreover, employees were able to appeal to the courts directly in the event that they were not provided with an employment contract. They also had other ways of proving that they were employed and seeking reparation in the event of violations of their rights.

3. Turning to the issue of bride kidnapping, he said that, in the majority of cases, it was seen as a traditional marriage ritual and carried out with the full consent of the bride. When it occurred against the bride's will, it was considered a criminal offence and was punishable by imprisonment of up to 7 years, or 10 years if the bride was underage. Such cases were however rare.

4. Migration-related projects implemented in collaboration with international organizations generally had a very positive impact – for example, they had led to the State party's accession to the Convention. Kyrgyzstan was involved in a number of programmes that enabled it to improve its collection of statistics, enhance its national legislation and develop close cooperation with non-governmental organizations (NGOs) and international agencies, including the International Labour Organization and the Office of the High Commissioner for Human Rights.

5. Replying to the question on outsourcing work, he said that the practice was quite common. Persons employed in the cleaning or construction sectors were often employed through an agency. Such work entailed risks and depended on the terms of the employment contract. It was in the interests of both the employee and the agency to have a contract.

6. While agreeing that there was a contradiction between the respective definitions of migrant worker in the Convention and Kyrgyz legislation, he said that, in practice, it did not restrict the access of migrant workers in an irregular situation to government bodies. Nevertheless, there were plans to amend national legislation to bring it into line with the Convention and establish a more precise definition of migrant worker.

7. In accordance with the consular agreement between the Russian Federation and Kyrgyzstan, in the event that a Kyrgyz national was detained in the Russian Federation — or vice-versa — the nearest consular authority had to be informed within three days and given unrestricted access to the detainee so as to be able to guarantee their rights and assist them throughout the legal proceedings.

8. As far as cooperation with NGOs and recommendations issued by them were concerned, the Ministry of Labour, Migration and Youth worked closely with NGOs that dealt with issues relating to migration. Kyrgyzstan had established a public platform for dialogue and exchange and an advisory body attached to the Ministry of Labour, Migration

and Youth, both of which included NGO representatives and aimed to optimize the situation of migrant workers and resolve their problems through dialogue and consultation.

9. He did not anticipate that entry into the Eurasian Economic Union would prevent Kyrgyzstan from complying with the Convention. Despite the fact that other members of the Union were not parties to the Convention, there was no contradiction between the provisions of the Convention and those of the Union's legal framework as far as migrant workers were concerned. Regrettably, not enough effort was being made to increase public awareness of the Convention. However, greater attention would be paid in future to finding ways and means of remedying the situation.

10. Turning to the question on the status of the Convention under Kyrgyz law, he said that in accordance with the Constitution, all international instruments to which Kyrgyzstan was party formed part of Kyrgyz legislation. International human rights treaties took precedence over other international instruments and were directly enforceable. Moreover, the Kyrgyz Constitution, which prevailed over all national legislation, contained provisions guaranteeing all the fundamental human rights enshrined in the various international instruments to which Kyrgyzstan had acceded. Thus, the rights set forth under the Convention were fully in line with those of the Constitution and were guaranteed for all persons in Kyrgyzstan irrespective of nationality or legal status.

11. As to the question about the involvement of Kyrgyz migrant workers in drug trafficking, he said that around 500 of the 500,000 of the Kyrgyz nationals residing in the Russian Federation in 2014 had been charged with drug related offences. The problem did exist and could have an adverse effect on the movement of Kyrgyz migrant workers, who could be subject to additional border inspections if suspected of carrying drugs.

12. Ninety per cent of migrant workers leaving Kyrgyzstan were ethnic Kyrgyz and emigrated primarily for economic reasons. He refuted the suggestion that ethnic Uzbeks and Russians left Kyrgyzstan as a result of discrimination. Kyrgyz law did not provide for the detention or deportation of irregular migrants in Kyrgyzstan in cases of first offences, when a fine was usually imposed. If such persons reoffended within the course of a year they could be deported, but only in accordance with a court ruling. Rulings by courts of first instance could be appealed and referred to the Supreme Court for a final ruling usually issued within one year. In general, the type of administrative offences in question related to residence and employment issues.

13. On the subject of conflicts between Chinese migrants and local residents, he said that a large proportion of migrant workers in Kyrgyzstan were Chinese nationals, most of whom travelled to Kyrgyzstan to work on Chinese-funded infrastructure projects for the duration of those projects. Between 2003 and 2015, the quota for foreign migrant workers employed in Kyrgyzstan had increased more than fivefold owing to project requirements. Quotas were drawn up in accordance with national economic requirements and there was no deficit. In the event that a quota for a p rticular project was not used, it would be reassigned to another project.

14. The Ministry of Labour, Migration and Youth drew up policies to address employment, migration and youth concerns. Under Kyrgyz law the definition of youth was people aged between 18 and 27, and they constituted the majority of the unemployed and the majority of Kyrgyz migrant workers. The Ministry's main objective was to ensure that people could find work in Kyrgyzstan and it oversaw a youth labour exchange, which organized regular job fairs. If graduates were unable to find work within the country, they would be assisted in finding a job abroad. The Ministry operated a centre for the employment of Kyrgyz citizens abroad, which provided advice on visa requirements and living and working conditions in the country of employment. A free hotline had been set up to answer related questions, and information booklets on migration procedures were

provided in various languages. Furthermore, a series of videos had been broadcast on television aimed at raising awareness of the risks of human trafficking and slavery.

15. The centre also implemented a memorandum of understanding on migration between Kyrgyzstan and the Republic of Korea, whereby Kyrgyz nationals who wished to work in the Republic of Korea were provided with pre-departure language training and were assisted in finding employment and in completing all the necessary documentation. The Ministry's youth division advertised job vacancies and facilitated contacts between employees and employers. There were over 100 agencies that offered vocational training programmes and trained around 26,000 people every year.

16. Private employment agencies seeking to place Kyrgyz nationals in employment abroad could only operate if they had a licence issued by the Ministry of Labour, Migration and Youth. To obtain licences agencies had to submit various documents proving that they had contacts with employers abroad, such as employment contracts. The Ministry of Labour, Migration and Youth monitored the activities of such agencies to prevent any violations of the rights of migrant workers, and agencies were obliged to submit information regularly on the numbers of persons employed and their destination countries. Nine private employment agencies had been granted licences in 2014 and had found employment for Kyrgyz nationals in Europe, the United States of America and the United Arab Emirates. A bill on private employment agencies drafted with the aim of regulating their activities was under discussion.

17. The plan proposed by the Russian Federation to set up temporary reception centres to accommodate and provide initial training for migrant workers had been discarded, for reasons unknown. The Government intended to ramp up its outreach programmes to raise public awareness of the Convention and to provide training to public officials.

18. Men and women were held separately in detention centres but there were no facilities solely for migrant workers. The commission of an administrative offence did not necessarily result in a foreign national being detained; instead, and depending on the gravity of the offence, fines were imposed. Foreign nationals who crossed Kyrgyz borders illegally could be returned. For criminal offences warranting incarceration migrant workers were held in the same conditions as Kyrgyz nationals.

19. In response to comments about the need to improve statistical data on migration flows, he said that an inter-agency electronic database had been developed to standardize and centralize data collected. The database was currently being piloted for a two-month period. Although various government agencies would have access to the database, it was likely to be used predominantly by migration and customs officials, since it contained information such as names and destination countries of migrants and the dates of their movements from countries. In conclusion, he provided detailed statistics on recent migration flows and on various offences committed by migrant workers and the types of penalties imposed.

20. **Ms. Iskakova** (Kyrgyzstan) said that the Government was committed to tackling corruption. In 2012, legislation on combating corruption had entered into force, and various programmes had been rolled out at the institutional level. The basic approach in fighting corruption was to establish the rule of law and increase the transparency and effectiveness of State bodies, inter alia, by implementing reforms among the judicial and law enforcement authorities, ensuring greater participation of civil society and emphasizing that punishment was inescapable. In fact, in recent years, more than 1,200 criminal cases of corruption had been opened.

21. Migrant workers and Kyrgyz nationals were guaranteed equal access to legal assistance in Kyrgyzstan and the State provided a lawyer if a person did not have or could not afford legal representation.

22. Various affirmative action programmes had been put in place to facilitate the return to Kyrgyzstan of persons of Kyrgyz ethnic origin who, having fled the country under the former Soviet Union or during the revolution, had the right to return. Those programmes included loans for the construction of housing and local authority assistance for their reintegration. Those programmes were not considered as discriminatory, but were intended to compensate a disadvantaged group for the shortcomings of the past.

23. The maternal mortality rate was indeed high in Kyrgyzstan and fell short of the related Millennium Development Goals. While migrant workers were not discriminated against in terms of their access to health care, including maternity services, they were affected by the problem. There were various reasons for the high mortality rate which were connected with the country's overall economic difficulties as well as the organization of its health-care services.

24. Regrettably, the Kyrgyz courts did not refer to international treaties such the Convention, and judges certainly needed training in that regard. However, it would be difficult to introducing such training until ongoing judicial reforms had been completed. In accordance with the Constitution, international agreements in force and to which Kyrgyzstan was a party formed part of the legal system and international human rights treaties took priority over other national laws. However, Kyrgyzstan needed to develop appropriate mechanisms to ensure that such provisions were effectively implemented.

25. Lastly, on the issue of whether Kyrgyzstan would recognize the competence of the Committee to receive and consider communications, under articles 76 and 77 of the Convention, she stressed that while Kyrgyzstan was a party to almost all major international human rights instruments, and had agreed to the communications procedure under two of them, it was still a fledgling country. It had undergone a revolution in 2010 and, within two years, had gone through political transition, established a constitution and held parliamentary and presidential elections. It needed time to create effective mechanisms to deal with its existing commitments.

26. **Mr. Sarybaev** (Kyrgyzstan) said that in order to improve contact with Kyrgyz migrant workers abroad, the Government was planning to establish offices of the Ministry of Labour, Migration and Youth in the main destination countries for migrant workers. Formerly, services in the countries where Kyrgyz nationals most frequently sought work had been provided by the Ministry of Foreign Affairs. An agreement to establish an office of the Ministry of Labour, Migration and Youth of Kyrgyzstan in the Russian Federation was due to be signed imminently. In addition, it was planned to have voluntary representatives of the Ministry of Labour, Migration and Youth in other countries with a significant number of Kyrgyz migrant workers. Such persons could be diaspora leaders, Kyrgyz nationals or nationals of the destination countries provided that they had the necessary authority to protect the legal rights and interests of migrant workers in those countries. Within Kyrgyzstan, work was under way to create a new category of highly skilled and specialist foreign workers who would not be subject to quotas which would streamline the procedures for obtaining work permits. The criteria for eligibility included the requisite level of education and work experience for which commensurate salaries would be established.

27. **Ms. Toktalieva** (Kyrgyzstan) said that an agreement had been in force since 2014 to ensure that migrant workers and their families had the right to medical care and health insurance within the Commonwealth of Independent States. Under the agreement, the social protection costs of foreign nationals with permanent residence status were covered by the employer on the same basis as nationals of the State of employment. Accordingly, foreign nationals who were permanently resident in Kyrgyzstan were treated in the same way as Kyrgyz nationals in respect of health-care services, as well as in outpatient clinics where payment was required. Family medical care, vaccinations and emergency treatment were

provided free of charge to children up to the age of 5 years, including children of Kyrgyz migrants in the Russian Federation. There had been instances where Kyrgyz female migrant workers had left their children in the Russian Federation, but in such cases repatriation procedures had been undertaken in order to bring them back to Kyrgyzstan.

28. **Ms. Ladjel**, after commending the State party on its extensive laws covering international migration, internal migration and labour migration, said that she wished to know how those three separate laws complemented each other and why there was not one single piece of legislation.

29. **Ms. Dicko** said that she would welcome further information on the mechanisms for disseminating and raising awareness of the Convention among migrant workers and for ensuring that they had access to information about the conditions in their destination country. Noting that social security was a national obligation, she enquired what provisions had been made for Kyrgyz migrant workers who retired abroad and whether there were any social security agreements with host countries.

30. **Mr. Taghizade** said that he would appreciate clarification as to whether the provisions of the Convention were invoked by the Kyrgyz courts and how they were disseminated among public officials. Noting that the centralized database on migration flows from Kyrgyzstan was likely to be of use only to customs and migration agencies because of the type of information it contained, he asked whether there were any further projects in the pipeline to collect data on migrant workers abroad. While he welcomed the information provided on developments in consular services, what he really wished to know was how the rights of Kyrgyz migrant workers and their families were upheld when they were outside the country. For example, could migrant workers vote in elections held in Kyrgyzstan? Information available indicated that the situation was not entirely satisfactory on that front.

31. The delegation had provided detailed information on criminal offences committed by migrant workers held in detention whereas what the Committee was interested in was whether such persons had been detained for reasons relating to their migrant status, such as breaches of laws relating to residence rights. Furthermore, in the light of reports that Kyrgyz migrant workers held in detention centres in their host countries had been subjected to violence, sexual exploitation or had had their wages withheld, he would appreciate information on steps taken in the host countries to protect their rights.

32. **Mr. Ceriani Cernadas** said that he would like further clarification on how the State party differentiated between migrants in a regular situation and those considered to have irregular status. Were there any rights enjoyed by migrants in a regular situation to which those in an irregular situation did not have access, such as consular protection? Were any of those rights limited in terms of the State party's interpretation of migration labour laws?

33. Noting that migrants in an irregular situation were not detained in Kyrgyzstan but liable to fines and that repeat offenders could however be deported, he asked whether it was possible for migrants to regularize their situation after payment of the fine in order to avoid any risk of deportation. He asked for more information on the procedure for returning foreign nationals who contravened the borders of Kyrgyzstan. Was it an administrative procedure, or was it court ruling as with deportation? Lastly, he reiterated his concern about violence against Chinese migrant workers and asked what action had been taken to combat incidences of racism and xenophobia in the State party.

34. **Mr. Haque** asked what policies the Government had in place to address the issue of the brain drain. He also wished to know how the State was seeking to attract second or third generation Kyrgyz emigrants back to the country and how their rights were guaranteed particularly in respect of citizenship.

35. **Mr. Brillantes** said that he wished to know more about the situation of migrant workers of Uzbek origin and whether they suffered mistreatment or were targets of xenophobia.

36. **Mr. Kariyawasam** asked how many consulates Kyrgyzstan had in the Russian Federation and in Kazakhstan, how consular staff dealt with issues involving Kyrgyz migrant workers and whether they had received any training in that regard, particularly in the light of the fact that neither the Russian Federation nor Kazakhstan was a party to the Convention.

37. **The Chairperson**, speaking as a member of the Committee, asked whether there was any policy in place to regulate workers' remittances, in particular from the Russian Federation. He also asked whether any bilateral or multilateral migration agreements were envisaged or had been concluded.

The meeting was suspended at 11.50 a.m. and resumed at 12.15 p.m.

38. **Ms. Iskakvova** (Kyrgyzstan) said that complaints regarding the mistreatment of Uzbek migrant workers had been reported by NGOs. The Uzbek population had not been targeted but, as Kyrgyz legislation did not distinguish between migrants of different ethnic groups, no separate statistics were available concerning violations specifically against them. It was possible that the information provided by the NGOs in that regard referred to repercussions stemming from a brief period of inter-ethnic conflict between Kyrgyz and Uzbeks in June 2010. That episode had been met with a decisive response on the part of the Government as, at its own request, the Independent International Commission of Inquiry into the Events in southern Kyrgyzstan had been formed. The Commission had issued a report to which the Government had responded, and the Chairperson of the Commission had acknowledged that the Commission's report did in fact contain discrepancies and that not all the circumstances had been taken into account. In the wake of the Commission's findings, the Government had worked with a number of civil society organizations to implement measures aimed at strengthening cooperation between ethnic groups. One of those measures was a plan of action for 2013–2017, the implementation of which was to be monitored by a special office on inter-ethnic cooperation attached to the President's office. It included provision for training law enforcement officers, reviewing legislation and ensuring that the Uzbek language was used in schools and by the media.

39. Special provision was made for the return of second or third generation Kyrgyz emigrants and legislation had been amended to facilitate their re-entry. Returning families had no residence requirements to meet. Once their status had been established, which took up to two months, they could apply for citizenship and their cases were decided within one year. They also enjoyed facilitated access to local government services and bank loans.

40. **Mr. Sarybaev** (Kyrgyzstan) said that the three different laws on migration covered different areas. The law on internal migration regulated issues relating to internal mobility such as registration of permanent and temporary residence, but not employment matters which were regulated by separate legislation. The law on international migration regulated matters such as movements of foreigners across the border and visas for foreigners for different purposes including tourism and permanent and temporary residence. The law on labour migration established procedures governing the entry and stay of foreign workers in Kyrgyzstan, and related quotas, as well the conditions for the departure and employment of Kyrgyz nationals abroad and the requisite documentation. Those laws were being reviewed by the Ministry of Labour, Migration and Youth to see if they needed to be amended or updated to reflect current circumstances.

41. Responding to the question about the mechanisms in place for disseminating and raising awareness of the Convention, he said he recognized that greater efforts needed to be made along those lines. He had already given details of the various measures to ensure that

persons seeking employment abroad were informed about conditions in the destination country. They included hotlines and information campaigns through the mass media.

42. As to the pension rights of migrant workers, under an agreement concluded in 2009 spelling out welfare and pension provisions within the Commonwealth of Independent States (CIS), nationals of one CIS State who were permanently resident in another CIS State were entitled to a pension there. The question of pension entitlements in the Eurasian Economic Union was still under discussion. Provision was made for Kyrgyz nationals working in the Republic of Korea to have their pension contributions transferred to Kyrgyzstan.

43. In order to improve data collection on Kyrgyz nationals residing and working abroad, a campaign was under way to take their fingerprints, signatures and photos and to record their movements across the border. The deliberate violation of borders by foreign nationals was a criminal offence under Kyrgyz law. If the violation was accidental — as sometimes happened in cases involving workers tending livestock — the persons involved could voluntarily return to their country of origin after providing an explanation of how the incident had occurred. Persons seeking asylum had to apply for refugee status and would be allowed to remain while the review process, including any appeal, was under way. However, they could not be returned to their country of origin if there were grounds for believing that they might be subjected to torture there.

44. There was no distinction made between Kyrgyz migrants in a regular and irregular situation. Kyrgyz nationals, whatever their status, enjoyed the same rights and received the same assistance, without distinction, including assistance with regularizing their status in host countries and with returning to their home country. The brain drain was not an overriding concern, but measures were being taken to define the status of foreign specialists and to help highly specialized Kyrgyz citizens find employment in their chosen field in Kyrgyzstan.

45. **Ms. Toktalieva** (Kyrgyzstan) said that protecting the rights and interests of Kyrgyz citizens abroad was a priority task of the Kyrgyz diplomatic and consular offices which provided a range of consular services on a daily basis and free legal assistance. Over the course of the previous 12 months, some 35,000 requests for consular services had been met. Moves were afoot to open additional consular offices abroad, particularly in certain cities within the Russian Federation, including Saint Petersburg, in order to provide support in areas where Kyrgyz migrant workers and their families were concentrated.

46. Parliamentary elections, to be monitored by observers from the European Union, were scheduled to take place in October 2015. In preparation for the elections measures were under way to compile biometric data which would help to ensure transparency. Around 17 different organizations were active in the Kyrgyz migrant diaspora in the Russian Federation and Kazakhstan, and there were mechanisms in place to work with those organizations and compile lists of voters. A number of different agreements existed with the countries to which Kyrgyz nationals travelled most. If the Committee required further information on that subject she could provide it to the secretariat.

47. **Mr. Brillantes**, after thanking the members of the delegation of Kyrgyzstan for the presentation of the initial report, said that the spontaneous nature of their replies was an indication of how well they had prepared for their meeting with the Committee.

48. **Mr. Taghizade** said that he also wished to thank the members of the delegation. Not only had they answered many of the Committee's questions but they had also elaborated on the problems faced by migrant workers in Kyrgyzstan and by Kyrgyz migrant workers abroad. The dialogue had been frank and satisfactory and had helped the Committee to understand the current situation in the State party and how it intended to continue to improve safeguards for migrant workers. He hoped that the questions raised by the

Committee would help Kyrgyzstan to focus on priorities in legislation, public awareness and other fields, and thereby meet its obligations under the Convention.

49. **The Chairperson** and **Mr. Brillantes** said that it was very gratifying to see how a country which had enjoyed independence for a few decades only had already managed to sign and ratify so many human rights instruments.

50. **Ms. Toktalieva** (Kyrgyzstan), after thanking the Committee for the constructive dialogue, said she hoped that the Committee's recommendations would help the Kyrgyz Government in its implementation of the Convention, and that the Committee would find ways to involve both host countries and countries of origin in the protection of the human rights of migrant workers.

The meeting rose at 12.55 p.m.

United Nations CMW/C/SR.275

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
24 April 2015

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-second session

Summary record of the 275th meeting
Held at the Palais des Nations, Geneva, on Tuesday, 14 April 2015, at 3 p.m.

Chairperson: Mr. Carrión Mena

Contents

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Peru

This record is subject to correction.

Corrections should be submitted in one of the working languages of the United Nations. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-07875 (E) 210415 240415

1507875

Please recycle

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Peru (CMW/C/PER/1; CMW/C/PER/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Peru took places at the Committee table.*

2. **Mr. Chávez Basagoitia** (Peru), introducing his country's initial report (CMW/C/PER/1), said that the creation of the Vice Ministry of Human Rights and Access to Justice, which assisted the executive branch in implementing a human-rights-based approach to public policy, represented a milestone in the promotion of human rights in Peru. Among the objectives of the National Human Rights Plan for the period 2014–2016 were the social integration of migrants in the country, the strengthening of mechanisms encouraging Peruvians residing abroad to return and the adoption of new legislation on aliens, which was being drafted. The Plan also aimed to ensure the comprehensive promotion and protection of the rights of migrants and their families, combat trafficking in persons and other forms of forced migration, safeguard the rights of foreigners and strengthen protection for internally displaced persons.

3. The National Commission against Discrimination, an inter-agency body that coordinated anti-discrimination efforts, carried out monitoring and auditing activities and provided technical guidance for the executive branch regarding equality and non-discrimination. A single platform to prevent discrimination was being established, drawing on recommendations and models from other countries in the region, and another platform assisted victims in reporting cases of racial discrimination.

4. The functioning of the National Migration Authority had been improved through, for example, the establishment of an online services platform allowing migrants to perform certain administrative procedures, such as requesting identity cards, more efficiently. The Authority was working to bring its procedures into line with the provisions of the Constitution and of human rights treaties to which Peru was a party. The Intersectoral Round Table for Migration Management had recently adopted guidelines to modernize the country's approach to migration policy. The Round Table addressed issues relating to Peruvians residing abroad and their families, those wishing to emigrate, returned Peruvians and those who wished to return, and foreigners in Peru, identifying priorities and setting goals using a results-based approach.

5. The Aliens Act, which was implemented jointly by the National Migration Authority and the Round Table for Migration Management, did not regulate specific aspects of migration and thus required amendment. While an amended version of the Act was still being drafted, along with updates to the Nationality Act, the rights of migrants in Peru were already protected in several ways – for example, through the national health authority, which protected the fundamental right to health regardless of migration status. Likewise, the Ministry of Labour and Employment made significant efforts to defend the rights of migrant workers and their families, in particular through the Directorate of Labour Migration. In cooperation with the International Organization for Migration and the International Labour Organization, it had organized workshops to raise awareness among public officials of issues related to labour migration, including the rights of migrants and their families as enshrined in the Convention. Videoconferences had been held to train advisers working in the Migrant Guidance Service in matters relating to labour migration. The "Let's Go, Peru" (Vamos Perú) programme had been implemented through the returnees' employment platform and the Act on the Economic and Social Reintegration of

Returned Migrants, promoting the employment of unemployed persons and those at risk of unemployment.

6. The National Labour Inspection Authority was responsible for ensuring respect for labour regulations and reporting cases of trafficking in persons and labour exploitation, to which migrant workers were especially vulnerable. The Constitution recognized the universal right to access to justice, and migrant workers and their families had recourse to several legal bodies. The Ministry of Justice and Human Rights provided free legal assistance to victims of trafficking and rights violations through the Directorate-General of the Public Defence Service. Trafficking in persons was also addressed by the National Plan of Action against Trafficking in Persons, which aimed to prevent trafficking, prosecute perpetrators, and protect and assist victims. The Directorate for the Investigation of Trafficking in Persons and Smuggling of Migrants worked to prevent, investigate, report and combat such crimes. Two prosecution services specializing in the trafficking of persons had been established to address the growing problem of organized crime rings subjecting individuals to labour and sexual exploitation.

7. Despite the progress made in Peru in protecting the rights of migrants, challenges remained, and tackling them would require efforts by society as a whole.

8. **Ms. Castellanos Delgado**, acknowledging the progress made in Peru in promoting the human rights of migrants, said that it was nevertheless regrettable that no law on migration had yet been adopted. She requested information on the draft laws that the Government claimed to have drawn up, including their number and status, who had drafted them and whether civil society had been consulted. While commending the State party's efforts to combat trafficking in persons, she observed that work also remained to be done in that area, and she asked for further information on how the issue was being tackled. She enquired whether deportation orders were suspended during the appeals process or whether those wishing to appeal such orders must do so through the State party's consulates following deportation; in the latter case a number of rights might be violated. Noting that the Aliens Act prevented persons with disabilities from entering or residing in Peru, she emphasized that such discrimination was prohibited by a number of international instruments and by the Peruvian Constitution itself.

9. **Mr. Ceriani Cernadas** said that the range of legal instruments on migration created confusion about the law and could lead to inconsistent application of the relevant legal provisions. He asked what measures the Government was taking to address the reportedly large increase in expulsions of migrant workers. He wished to know what measures would be introduced to address the obstacles to family reunification presented by minimum residence length and income requirements.

10. Information before the Committee indicated that migrant workers could be detained as a sanction and as part of the procedures leading up to expulsion. He asked whether such workers could indeed be detained, in any form, under current procedures and said that the reference to detention in the Aliens Act was cause for concern. Noting that the Committee had been informed that the vast majority of expelled migrant workers were of Haitian origin, he asked whether alternative measures, such as humanitarian assistance, had been considered in response to increased migration flows following the 2010 earthquake in Haiti.

11. He requested more information on whether the police investigated violations of migration law regardless of the fact that such violations were not considered a criminal offence. He also requested information on the mechanism that allowed citizens to report foreign nationals in an irregular situation to the authorities, which could lead to sanctions for the foreigners concerned. He asked whether the State party was taking legislative measures to remove the cap on the employment of migrant workers by individual

companies, given that such restrictions were not in keeping with the provisions of the Convention.

12. **Mr. Brillantes** asked whether migrant workers in Peru were able to join and form trade unions without restriction and whether they could hold office in unions. Referring to the concerns about migrant domestic workers raised by the Special Rapporteur on contemporary forms of slavery in her report on her 2011 visit to Peru (A/HRC/18/30/Add.2), he asked whether the State party had implemented the Special Rapporteur's recommendations to address failures to register domestic workers and restrictions on their freedom of movement and communication. Had the State party considered ratifying the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189)?

13. **Mr. Tall**, referring to paragraph 131 of the State party's report, asked whether the delegation could provide examples of prosecutions, and the ensuing sanctions, for acts of discrimination against migrant workers, and of cases in which employers or others had been found guilty of acts of violence against female domestic workers. He asked what follow-up action, including prosecutions and sanctions, had been taken against the businesses found to have committed offences relating to foreign workers during the period 2007–2012, and what compensation had been provided to the workers concerned. He requested more information on the crime of femicide (gender-related murder of women), including the applicable sanctions and the number of prosecutions for that crime.

14. He said that he would appreciate having details of the implementation of article 27 of the Convention on equal treatment for migrant workers and nationals with respect to social security. He asked for more information on the protection of the family unit as it pertained to Peruvians residing abroad and migrant workers living in Peru.

15. **Mr. Haque** asked how Peru, as an origin and destination country, maintained a balanced migration policy that safeguarded the rights of Peruvian migrants abroad and the rights of foreign nationals in Peru. He asked how the Government was tackling the migration problems specific to possessing a lengthy coastline.

16. Noting that large numbers of Peruvian migrant workers travelled to the United States of America, Spain and Italy, none of which was a party to the Convention, he asked how Peru engaged with those countries at the consular level to address issues concerning migrant workers. He requested more detailed information on the role of the private sector in sending Peruvian migrant workers abroad and in the treatment of migrant workers in Peru, as well as information on how government migration policy could benefit the private sector.

17. **Ms. Ladjel** said that the Committee would appreciate updated information on the situation of migrant workers in Peru, including details of surveys or research that could provide insight into whether there had been any change in their situation, particularly with regard to their countries of origin and to the downturn in the construction and real estate sectors, which were a key source of employment for migrant workers. She asked how the relatively large Peruvian diaspora contributed economically and politically to the State party, including through participation in local elections.

18. **Mr. Pime** requested more information on the National Commission against Discrimination, including how a case could be referred to the Commission, the means at its disposal for investigations, the impact of its decisions and whether migrant workers were aware of its existence. He asked how the State party disseminated the Convention among public officials, particularly those working in areas linked to migration, and to migrants living in or transiting through Peru. He enquired how migrant workers in Peru were informed of their constitutional right of access to justice.

19. **Mr. Kariyawasam** said that information before the Committee indicated that large numbers of Peruvian migrant workers residing abroad were in an irregular situation. He asked what measures, including bilateral ones, the State party was taking to minimize irregular migration within and from Peru. He enquired whether there were statistics concerning the number of domestic workers of foreign origin in Peru and whether specific measures were in place to protect migrant domestic workers.

20. **Mr. Taghizadeh** requested detailed statistics on migration flows, including information on destination and origin countries, the sex of migrants and transitory migration, and on the scale and locations of seasonal work performed by Peruvian migrant workers in neighbouring countries. He asked how Peruvian consulates in destination countries supported Peruvian migrant workers in those countries and how they helped those workers exercise their right to vote in Peruvian elections.

21. **The Chairperson**, speaking as a Committee member and acknowledging the difficulty of collecting accurate migration statistics, particularly with regard to migrants in an irregular situation, asked how the State party ensured that it had a valid statistical basis for its migration policy. He asked how civil society was involved in migration-related policymaking and how it had participated in the preparation of the State party's report.

22. He enquired how the State party encouraged the channelling of private remittances into productive sectors of the economy in place of consumer spending. He said that information on the State party's experience of implementing the right to vote of Peruvians residing abroad could be useful to other States that were introducing similar policies. The delegation should assess the value of the bilateral and multilateral treaties concluded by Peru with other countries and comment on the Government's position on the proposal by the Union of South American Nations to establish South American citizenship and freedom of movement within South America.

The meeting was suspended at 4.40 p.m. and resumed at 5.10 p.m.

23. **Mr. Chávez Basagoitia** (Peru) said that his country was fine-tuning its legislative framework to make it consistent with the provisions of the Convention and the other international instruments to which Peru was a party. He was aware of the importance of obtaining reliable statistics for the Committee, but his delegation needed more time to do so, particularly regarding the number of Peruvian nationals living abroad. With regard to ILO Convention No. 189, there were more Peruvian domestic workers in neighbouring countries than foreign domestic workers in Peru. Nonetheless, Peru was considering ratifying the Convention.

24. **Mr. Sivina Hurtado** (Peru) said that both foreign nationals and Peruvians could use various legal channels, provided for by numerous national laws and the Constitution, to submit complaints. Under the new Act on Labour Court Proceedings (Act No. 29497), migrant workers enjoyed the same legal safeguards and access to justice as Peruvian nationals. Complaints were first brought before a labour court and, in the final instance, the Supreme Court. Such cases could also be brought before judicial bodies other than labour courts, as when the complainant's fundamental right to personal liberty had been violated or the person had fallen victim to a crime. Employees of the investigative services of the judiciary could attend information and training sessions on human trafficking and forced labour, which were organized with the help of ILO and the Brazilian Ministry of Labour. However, the judiciary had informed the Ministry of Justice and Human Rights that it lacked information on offences committed by migration officials, and there was a need to rectify the situation.

25. There were no avenues of appeal available exclusively to migrant workers in an irregular situation; they used the same legal channels as Peruvian nationals, thereby ensuring equality for all. However, as migrant workers might be unfamiliar with the legal

remedies available to them, the website of the judiciary provided information on judicial proceedings and on courts to which they could submit complaints. Other government bodies also sought to disseminate such information, and joint efforts had been made with the Ministry of Labour and Employment to ensure that the information was included in its "Guide for Peruvian Immigrants Abroad". Complaints by migrant workers were handled not by the judiciary but by the Public Prosecution Service and the police. Migrant workers could also assert their labour rights in various courts under Act No. 29497, which also provided for appeals in cassation. There was a dearth of statistics regarding complaints submitted by migrants and brought before judicial bodies, and on reparations received by migrant workers, mainly because Peru had no registers specifying the migrant status of a person. However, measures were being taken to establish such a register within the judicial system. An administrative resolution provided language support for foreign nationals during legal proceedings, but he was unable to provide information on the degree to which such services were being used. Statistical trends in the expulsion of foreign nationals could not be calculated as the information recorded about convicts did not specify whether they were Peruvian nationals.

26. Peru had ratified numerous international instruments to prevent, investigate and punish violence against women. The National Plan to Combat Violence against Women for the period 2009–2015 had been agreed on by seven ministries and designed in cooperation with all relevant stakeholders, including subject experts and civil society representatives. It covered the three main areas of State activity: guaranteeing policymaking to combat violence against women, guaranteeing access to high-quality services for women, and promoting change in attitudes and in social interaction between men and women.

27. **Mr. Vallejo Martell** (Peru), addressing the issue of international protection and assistance for migrant workers, said that the Directorate-General for Peruvian Communities Abroad and Consular Affairs, an agency of the Ministry of Foreign Affairs, which oversaw policymaking, protection and assistance with regard to Peruvians abroad, was working to establish an integrated consular assistance and protection system designed to provide high-quality service to Peruvians abroad and ensure that all consulates followed uniform procedures. Pilot operations had begun in Argentina, Chile and the United States, and there were plans to start similar operations in Italy and Spain. Funding in the annual State budget had been earmarked for such assistance. In 2014, only 60 per cent of the allocated funds had been used, despite an increase in awareness-raising campaigns.

28. With regard to agreements with other countries, he said that Peru and Ecuador had signed the Permanent Migration Statute to facilitate the regularization of the status of migrants between the two countries. To eliminate shortcomings in the Statute, the two countries' Heads of State had agreed on supplemental measures in accordance with the Agreement on Residence for Nationals of the States Parties of the Common Market of the South (MERCOSUR). A meeting would be held with Ecuador later in 2015 to further improve the Statute. Multilateral agreements had been concluded in relevant areas such as education and social security. For example, Peru and Uruguay had both ratified the Ibero-American Multilateral Social Security Agreement, which had enabled the two countries to agree on the use of a mutually recognized social security card. Bilateral social security agreements had been signed with Argentina, Canada, Chile, Ecuador and Spain, and there were plans to sign such an agreement with the Republic of Korea. Other bilateral agreements relevant for the situation of migrant workers had been concluded with Chile and Colombia.

29. Peruvian consulates made provision for Peruvians abroad to vote in elections. Peruvians living abroad who were entered in the national identity register could vote in both presidential and congressional elections but could not stand for office. A bill was before the Congress regarding the creation of a single constituency for Peruvians abroad to

replace the current procedure whereby their votes were counted under the election results of the constituency of Greater Lima. With regard to remittances, the estimated 2 million Peruvians living abroad sent home remittances totalling some US$ 3 billion a year, according to a study conducted by the Central Reserve Bank of Peru. While remittances were mainly spent on consumer purchases, the Ministry of Foreign Affairs promoted a more productive use of such remittances by offering Peruvians living abroad an insurance policy costing US$ 8 which would enable the children of such Peruvians to obtain a secondary education if their parents died.

30. After the Heads of State of the Union of South American Nations (UNASUR) had voiced their support for the creation of South American citizenship, Peru, which at that time had been presiding over UNASUR, had organized two videoconferences to take the issue forward. During the first, member States had produced a concept note and road map. During the second, Peru had presented guiding elements for the gradual establishment of South American citizenship founded on the idea of a common identity and entitling citizens to, for example, the right to work in member countries; access to social security, consular protection and assistance; and the recognition of their civil and political rights in member countries. The guiding elements had been approved by the other member States, and a concept note had later been agreed upon by the Heads of State. A working group on South American citizenship had also been formed.

The meeting rose at 6 p.m.

United Nations CMW/C/SR.276

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
24 April 2015

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-second session

Summary record of the 276th meeting
Held at the Palais des Nations, Geneva, on Wednesday, 15 April 2015, at 10 a.m.

Chairperson: Mr. Carrión Mena

Contents

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Peru (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages of the United Nations. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-07876 (E) 230415 240415

1507876

Please recycle

The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Peru (continued) (CMW/C/PER/1; CMW/C/PER/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Peru took places at the Committee table.*

2. **The Chairperson** invited the delegation of Peru to reply to questions asked at the previous meeting.

3. **Mr. Chávez Basagoitia** (Peru) said that his country's rapid economic and social development had contributed to heightening its attractiveness for migrant workers. The current Aliens Act therefore required revision, and a bill to that effect, incorporating a human-rights-based approach, had been drafted by a working group made up of representatives of stakeholders including the public and private sectors, civil society and human rights organizations. The bill represented a major step forward, providing for new immigration categories — for example, highly skilled workers and those migrating for humanitarian reasons — and including provisions to facilitate migration flows, streamline procedures and prevent the criminalization of irregular migration.

4. Civil society organizations were very active in all areas of Peruvian politics and society and customarily participated in the drafting of treaty body reports and legislation. The Government had a good working relationship with such organizations; however, owing to time constraints, the initial report of Peru to the Committee had, regrettably, been drafted without their input.

5. A range of initiatives had been implemented to combat trafficking in persons and support victims. The total budget allocation for combating trafficking in migrant workers currently stood at around US$ 3 million. Certain programmes or units fell under government ministries and thus had an overall departmental budget, while other entities had specific funding and targets relating to that issue. Various initiatives fell under the remit of, among others, the Ministry of Foreign Affairs, the Ministry of Labour and the Ministry of the Interior. They included, for example, measures to support and assist victims of trafficking and provide repatriation and consular assistance; to prevent the sexual exploitation of children and adolescents and support the victims thereof; and to promote employment opportunities for migrant workers.

6. The National Plan of Action against Trafficking in Persons for the period 2011–2016 came under the remit of the Ministry of Women and Vulnerable Groups, which also had the largest budget allocation and the main responsibility for tackling the issue, particularly in terms of providing assistance to victims. It had recently issued a protocol on trafficking and had implemented a broad range of mechanisms to assist victims of sexual and domestic violence, ensure access to justice and provide free emergency care services. Under a family welfare initiative established in 2014, shelters, including one for adolescents, had been set up for victims of trafficking. Various projects had been established in Maynas province to help child and adolescent victims and provide accommodation for women victims, and the local authorities in Madre de Dios, the region with the highest rate of Haitian migrant workers, had, in November 2014, launched a project to provide financial assistance.

7. The Ministry of Justice and Human Rights was responsible for providing legal assistance, including for victims of trafficking. In 2014, Peru had had 137 public defenders with expertise in that area, and there were plans to increase that figure to 177. The Public

Defence Service had dealt with 12 such cases during that year, and 15 cases had been opened between January and March 2015.

8. Up-to-date and accurate data regarding the numbers of migrant workers transiting to or from Peru were difficult to obtain, and only estimates could be provided. The majority of migrant workers registered in Peru originated from other countries in the Americas and included professionals and office workers. Between 2 million and 3 million Peruvians had emigrated abroad, with the main destinations being the United States of America, Argentina and Chile.

9. Under the Constitution, migrant workers and Peruvian nationals were treated equally in the eyes of the law, a principle that was applied consistently throughout the national legislative framework. Migrant workers were therefore accorded the same rights as Peruvian workers to join social security schemes and trade unions, and to hold office in the latter, and they could, in certain circumstances, work in the public sector. Bilateral agreements on social security were in place with various countries to ensure that Peruvian nationals could retire with pensions.

10. The Act on Employment of Foreign Labour exempted some categories of migrant workers from employment quotas. For example, there were no quotas for migrant workers who were married to Peruvians or were citizens of other members of the Common Market of the South (MERCOSUR) or of other countries with which Peru had bilateral agreements. Certain employment categories were also exempted, such as foreign nationals investing in the country or working for airlines or multinational companies.

11. Enforcement of labour standards throughout the country, including for migrant workers, came under the remit of the Labour Inspectorate, which had the authority to inspect business premises and activities and impose fines for breaches of regulations. Under that framework, migrant workers could seek recompense from the authorities in the place where their rights had been violated.

12. **Mr. Sivina Hurtado** (Peru) said that migrant workers were crucial to economic development in Peru and throughout the Latin American region. To complement the new legislation being drafted, existing legislation needed to be harmonized with that of neighbouring countries. Although migrant workers were accorded the same rights as Peruvian nationals, certain restrictions applied to workers in an irregular situation. Accordingly, the aim had always been to regularize the situation of such workers, which could be done under the Aliens Act as it currently stood. However, it was important to recognize that not all workers wished to have their situation regularized and that some did not meet the requirements.

13. When migrant workers or members of their families considered that their rights had been violated, they could seek legal redress and compensation under article 139 of the Constitution. The Public Prosecution Service was responsible for investigating such offences and had the power to open criminal prosecutions and, in certain cases, order the pretrial detention of the perpetrator. The level of civil compensation awarded for rights violations corresponded to the severity of the breach and the injury caused.

14. Migrants who faced legal sanctions under the Aliens Act for having failed to regularize their status in the country could lodge an appeal. Judges had the power to order their release, if they had been unjustly detained, and to suspend their expulsion from the country.

15. While the Aliens Act guaranteed the equality of persons with disabilities with others before the law, he believed that it needed to take greater account of migrants with disabilities. A migrant with disabilities entering Peru would have to be accompanied by an able-bodied person, and a problem could arise if that able-bodied person then abandoned

his or her charge. Migrants with disabilities had to be sufficiently capable of fending for themselves. In that context, the Constitutional Court had recognized the validity of certain exceptional forms of interference with the freedom of action of an individual where that individual's limited capacity placed his or her human rights at serious risk.

16. As far as he could remember, the few complaints of discrimination made to the Attorney-General's Office had been shelved owing to lack of evidence, although the problem persisted in certain contexts, such as sporting events. In Peru, discrimination was prohibited under article 323 of the Criminal Code.

17. The Government had taken action to halt gender-related violence against women after the Ombudsman had denounced high levels of domestic violence in Peru, including a number of cases in which the victims had died. That action had been effective, as complaints had fallen from 123 in 2011 to 37 in the first half of 2013. Legal measures had also been introduced to prevent the harassment of women on public transport.

18. **Mr. Vallejo Martell** (Peru) said that the Aliens Act recognized the status of family members of migrant workers and provided for the reunification of families. Its definition of "family" included de facto unions and unmarried children, among other categories. The issue of the unity of the family had to be taken into account when considering the possible expulsion of a migrant worker. Peru had spoken out in support of children's rights and family reunification in a number of international forums, such as high-level meetings between the Community of Latin American and Caribbean States (CELAC) and the European Union.

19. The Government had approved a national plan for education in fundamental rights and duties, under which human rights training would be provided to public servants, including law enforcement officers and the military. The objectives of the plan rested on three main principles: equality and non-discrimination, full exercise of citizenship and a culture of peace. In particular, the plan focused on education regarding protection for the vulnerable and the marginalized and for people who lived in a context of mobility, such as migrant workers. The plan was being implemented, and its results would become evident in the medium to long term.

20. The Ministry of Foreign Affairs used the Internet to disseminate information about the Convention and the rights of migrant workers and their families, as did the Intersectoral Round Table for Migration Management, which had also collaborated with the International Organization for Migration to produce information videos for migrants and potential migrants.

21. The National Commission against Discrimination was developing an anti-discrimination platform to be funded by the Ministry of Justice and Human Rights and administered by the various ministries represented on the Commission. The new body would receive complaints of discrimination and, on the basis of that information, propose changes to the law as needed. It would also follow up on complaints and impose any necessary sanctions. How complaints were dealt with would depend on where the discrimination took place (school, the workplace, public transport, etc.) and its nature (whether it was based on race, gender, sexual orientation, etc.). Serious cases of discrimination were dealt with directly by the Commission.

22. A number of steps had been taken to reduce irregular migration, including the adoption of Act No. 30103, under which migrant workers had 120 days to submit a request to have their status in Peru regularized without having to leave the country and return. The MERCOSUR Residency Agreement Act was a permanent regularization mechanism from which 9,000 foreign nationals in Peru had benefited. The Ministry of Foreign Affairs had concluded agreements concerning the regularization of the status of Peruvian migrants living abroad with a number of countries including Argentina, Chile, Paraguay and

Venezuela. The Ministry had also organized awareness-raising initiatives, such as workshops with migration specialists, and had increased funding for consular offices, extending their opening hours and providing extra training to staff. Under the Aliens Act, a mechanism was to be established to facilitate the integration of migrant workers into Peruvian society.

23. Various measures had been put in place to encourage Peruvian migrants abroad to participate in elections. They included a campaign to remind migrants to register their change of domicile so that they would remain on the electoral register; disseminating information on candidates and the electoral process; setting up polling stations in each circumscription; sending credentials to polling officers by post or e-mail; and training consular officials in offering assistance to voters before and during elections. However, the process of voting from abroad was beset with problems, including the fact that the status of many Peruvian migrants abroad was irregular, which made it difficult for them to cast their vote, particularly if they lived in the United States of America. Other issues included absenteeism, the large geographical distances involved and a lack of funds, which made it difficult to hire staff and cover the costs of the electoral process.

24. Foreign nationals over the age of 18 who had resided in Peru for at least two years could participate, as both voters and candidates, in municipal but not national elections. Foreigners who had taken Peruvian nationality or were naturalized could also participate in regional elections, although they could not stand as candidates in frontier areas.

25. Since 2013, the Ministry of Foreign Affairs and the National Migration Authority had sought to disseminate information about the measures Brazil had in place to facilitate migration, the aim being to encourage Haitians to travel directly to that country without passing through Peru. In 2014, the Peruvian and Brazilian authorities had launched a joint campaign to end abuse of irregular Haitian migrants who, since 2011, had been entering Peru across the country's northern frontier on their way to Brazil. With the participation of the International Organization for Migration, leaflets and posters had been printed in Creole, French and Spanish warning Haitian migrants of the dangers of human trafficking and asking them to report any violations they witnessed or suffered. The same information had also been transmitted over the radio. The numbers of Haitian migrants had reached a peak of over 6,500 in 2011 but had fallen off sharply in 2012 with the introduction of new visa requirements.

26. Supreme Decree No. 020-2012-TR established regulatory norms for private employment agencies that sent migrants to work abroad, thus ensuring increased protection for the latter. The national register of private employment agencies was required to provide job seekers with contact information for Peruvian embassies in destination and transit countries and other relevant information. Employers had to submit employment contracts to the labour authorities. The latter conducted training courses to raise awareness about risks relating to trafficking in persons and forced labour. The majority of Andean frontier workers travelled independently. Under the Andean Labour Migration Instrument, 19 people had been employed as frontier workers and 334 as seasonal workers in the period 2011–2014.

27. **Mr. Chávez Basagoitia** (Peru) said that he wished to draw attention to a particular issue involving migrant workers in Peru: foreign workers were often involved in acts of violence against Peruvian domestic workers. Noting the relevance of the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189) in that regard, he added that, his previous observation notwithstanding, violence against domestic workers generally had more to do with gender issues and worker-employer power dynamics than with ethnicity.

28. With regard to expulsion figures, it was important to clarify that Peru made no distinction between migrants in general and migrant workers specifically. Indeed, migrant workers were generally protected from expulsion by virtue of their employed status.

29. **Ms. Dicko** requested further information on efforts to protect the rights of Peruvian and foreign frontier workers. She asked whether there were specific measures in place to facilitate the return and integration of Peruvian migrant workers. She enquired how foreign nationals could be employed in the Peruvian civil service.

30. **Mr. Ceriani Cernadas**, acknowledging that Peru was experiencing rapid social and economic change, which in turn was exacerbating some problems relating to migrant workers, said that the Committee would support the State party to the extent possible in its efforts to implement the Convention. While the Committee had received information from civil society organizations and institutions in preparation for the constructive dialogue, he wished to emphasize that States parties should themselves engage in dialogue with civil society prior to reporting.

31. With regard to the holding of migrants, he asked whether holding periods prior to expulsion were always limited to four hours, and he requested more information on holding conditions. He asked whether there were any examples of migrant expulsion rulings and whether appeals had suspensory effect. Would the revised Aliens Act protect the family unit from expulsion, in accordance with the Convention, and were assessments required before rulings on family expulsion were issued?

32. He requested statistics on the detention and holding of Haitian nationals and asked whether the number of Haitians migrating to Peru on an irregular basis had fallen since the introduction of the temporary visa requirement in 2012. Reports indicated that over 600 Haitians with an irregular status had been detained and expelled during the first half of that year. Recalling that migrant workers were protected by the Convention throughout the migration process, even before reaching the country of employment, he said that Haitian nationals in particular faced a very vulnerable employment situation in their country, as well as humanitarian and environmental challenges.

33. He requested more information on the mechanism whereby citizens could report irregular migrants.

34. He asked whether Peru was considering recognizing the competence of the Committee under articles 76 and 77 of the Convention with regard to communications. Lastly, with regard to the Agreement on Residency for Nationals of MERCOSUR Member States and Associated Countries, he asked whether nationals of all associated States had access to residency or whether it was available only to nationals of member States.

35. **Ms. Castellanos Delgado** asked for additional information on any new legislation that restricted the rights of migrants.

36. **Mr. El-Borai** asked whether Peruvian nationals abroad could make social security contributions and whether returning migrant workers were provided with a government pension.

37. **Mr. Brillantes** requested information on measures to protect the right of migrant workers in Peru to freedom of conscience and religion.

38. **Ms. Ladjel** asked whether the improved socioeconomic situation in the country encouraged Peruvian migrant workers to return to Peru, whether it encouraged foreigners to travel to Peru for work and whether it discouraged Peruvian nationals from going abroad to find work. She asked whether Peruvian nationals abroad had access to mechanisms enabling them to express their views and beliefs.

39. **Mr. Taghizadeh**, noting that some of the statistics provided were rather vague, requested more precise figures on the numbers of Peruvians residing abroad who had voted in recent elections. It was vital to obtain detailed information from all available sources in order to ascertain the conditions faced by migrant workers abroad, ensure that the necessary structures were in place to serve those people, and facilitate the Committee's work in protecting their rights.

40. **Mr. Chávez Basagoitia** (Peru) said that the report had been clear and transparent with regard to the protection of migrants in Peru and abroad and that his Government was fully committed to ensuring that protection. While there had been less civil society participation in preparing the report than was usually the case, his Government maintained good relations with civil society.

41. All migrants were provided with the means to defend themselves against complaints concerning them. His delegation would refer to the relevant authorities the issue of whether complaints could be addressed to the Committee in the form of communications.

42. Very few Peruvian migrant workers returned to Peru after retirement, despite measures taken to encourage that practice. Peru had concluded bilateral agreements with countries that received high numbers of Peruvian migrants to ensure full retirement benefits for those people.

43. With the country's socioeconomic situation improving, people were more likely to remain in Peru, and migration out of the country had decreased. However, many Peruvians had become well established in developed countries and were not interested in returning, despite Government efforts to entice them back. On the other hand, partly because of the economic crisis in Europe, the number of highly skilled foreign workers migrating to Peru had increased.

44. The Government promoted mechanisms to foster communication between Peruvian diaspora communities and consulates, which allowed consulates to determine migrants' needs and provide humanitarian and administrative assistance. The electoral roll included 754,000 people living abroad, around half of whom had, with the assistance of their consulates, voted in the second round of the elections.

45. He said that Peru was very open to employing foreign nationals in the public sector and cited the example of a Cuban paramedic who had been employed by the medical service of the Ministry for Foreign Affairs.

46. **Mr. Sivina Hurtado** (Peru), referring to the temporary detention of migrant workers found to be in an irregular situation, said that if the applicable regulations were breached, workers whose rights were violated could take legal action. Further information on relevant legislation could be provided to the Committee in writing.

47. **The Chairperson**, commending the Peruvian delegation for its constructive approach to the dialogue, said that the Committee looked forward to receiving the additional information it had requested.

The meeting rose at 1 p.m.

United Nations CMW/C/SR.277

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
30 April 2015

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-second session

Summary record (partial)* of the 277th meeting
Held at the Palais des Nations, Geneva, on Wednesday, 15 April 2015, at 3 p.m.

Chairperson: Mr. Carrión Mena

Contents

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Uganda

* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages of the United Nations. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-07896 (E) 270415 300415

1507896

Please recycle

The discussion covered in the summary record began at 3.50 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Uganda (CMW/C/UGA/1; CMW/C/UGA/QPR/1)

1. *At the invitation of the Chairperson, the delegation of Uganda took places at the Committee table.*

2. **Mr. Onyanga Aparr** (Uganda), introducing his country's report (CMW/C/UGA/1), said that migration patterns in Uganda were affected by social, political and economic factors at the national and regional levels, and that the number of Ugandan migrant workers was increasing. Uganda was a member of the East African Community Common Market and had adopted its annexes on the free movement of persons and of workers. Foreign migrants in Uganda were mostly refugees from nearby countries or persons seeking employment, and, while some migrant workers in Uganda benefited from better pay and conditions than their Ugandan counterparts, others were victims of trafficking and suffered poor conditions. However, a lack of information impeded the regulation of the flow of immigrants and their treatment. The number of Ugandans residing abroad was increasing steadily; most lived in other African countries, with Kenya the most popular destination. However, statistics did not include temporary migrant workers, meaning that the true figures might be much higher.

3. Internal migrants represented approximately 6 per cent of the population, and more than half resided in the Central region. The majority were under the age of 30, with a significant number under the age of 15. Internal migration was motivated by a range of factors, including better economic opportunities, and was vital in particular to the livelihood of the Karamojong people, who had been forced to migrate to urban areas following a series of environmental, political and economic shocks, and whose children were increasingly trafficked. In other areas, internal displacement had been caused by natural disasters but was decreasing thanks to the end of the war in northern Uganda and efforts to reintegrate displaced persons.

4. Remittances represented almost 6 per cent of the country's GDP, and almost 70 per cent of that income was spent on household consumption, including education. While migration had positive effects — for example, it gave migrants greater food security, met labour needs and contributed to the economies of countries of origin through remittances, return migration and the transfer of knowledge and skills — it also increased migrants' vulnerability and the spread of disease.

5. The number of Ugandan migrant workers would continue to rise, especially if Uganda signed bilateral agreements with countries that recruited migrant workers. Ugandans would therefore remain vulnerable to trafficking in persons unless the Government made concerted efforts to manage migration and develop assistance networks abroad. Internal and irregular migration were also expected to rise.

6. In order to protect the rights of migrant workers, Uganda had ratified a number of international instruments and incorporated their provisions into laws such as the Citizenship and Immigration Control Act and the Prevention of Trafficking in Persons Act. That legislation was enforced by various bodies, including the Human Rights Commission and the Equal Opportunities Commission. However, statistics on migration were lacking, and data were not always made available for analysis or disaggregated by sex or age. Consulates did not gather data, thus impeding understanding of Ugandans' migration patterns. Household surveys on migration were not carried out, and the country's information systems did not include migration indicators.

7. Private recruitment agencies were increasingly involved in migration and required effective oversight so that the rights of migrant workers could be protected. There had been numerous reports of rights violations by agencies, including the confiscation of passports and the misrepresentation of employment opportunities. Additionally, some agencies routinely administered HIV/AIDS and pregnancy tests, breaching internationally recognized standards. While there were growing numbers of migrants in an irregular situation in Uganda, the nature of that migration meant that their rights could not be protected effectively.

8. **Mr. Taghizadeh** requested clarifications concerning the extent to which the provisions of the Convention were being implemented in theory and in practice. For instance, he wished to know whether courts directly invoked the Convention when adopting judicial decisions. Noting that the State party had entered a reservation with regard to article 18 of the Convention to the effect that it could not guarantee free legal assistance for migrant workers, he asked whether there were other areas in which the State party was not fulfilling its obligations under the Convention. He requested additional statistics on migratory flows inside and outside Uganda – for example, on the number of Ugandan migrant workers and their main destination countries, the dynamics of such migratory flows, and on the countries to and from which migrant workers passing through Uganda travelled. With regard to the safeguarding of the rights of Ugandan migrant workers, he asked whether there was a database of Ugandan nationals living abroad, whether they had access to consular services, whether they were able to vote in Ugandan elections, and whether mechanisms were in place to inform Ugandan migrant workers of their rights under the Convention. He requested specific data on any such mechanisms and their impact.

9. **Mr. Brillantes** requested an update on the status of the national policies on migration, immigrants and the diaspora and asked whether they were in line with the Convention. He asked what steps were being taken to stem the increase in the number of migrant workers in an irregular situation in Uganda.

10. Referring to reports that Uganda was recruiting health workers to send to Trinidad and Tobago even though the number of nurses and doctors in Uganda was already below the minimum threshold established by World Health Organization guidelines, he asked why the State party was encouraging such a brain drain when it violated the right to health of Ugandan nationals, and when the Institute of Public Policy Research in Uganda was seeking a court order to halt such measures.

11. He enquired whether the Anti-Homosexuality Act endangered homosexual foreign migrant workers in Uganda and homosexual Ugandan nationals abroad. He said that it was troubling that NGOs had not participated in the preparation of the report. He asked which ministries had been involved in its preparation.

12. He asked whether training on the principles of the Convention had been offered to relevant stakeholders in the Ugandan Government and whether its text had been disseminated to them.

13. He enquired whether migrant workers were free to join trade unions. He said that the Committee would appreciate information on the role of recruitment agencies, as there were reports of such agencies' facilitating human trafficking, sexual exploitation and abusive working conditions.

14. **Ms. Ladjel** said that the Ugandan indicators for life expectancy, unemployment, poverty and illiteracy did not reflect the State party's investment in those areas. For instance, articles 30 and 45 of the Convention obliged States parties to offer education services to migrants and their family members on an equal basis with nationals, but she wondered if that was being done, given the high illiteracy rate in Uganda. She asked whether those responsible for applying the provisions of the Convention received training

in its contents. She enquired whether the Children Act was the law commonly referred to as the Children's Code.

15. **Mr. Tall** asked whether there had been any cases of collective expulsion from Uganda in the previous five years and, if so, under what circumstances they had taken place. He said that, in the light of the unrest in the region around Uganda, the Committee would appreciate information on cases of torture and violence; on complaints by migrant workers regarding torture, violence, corruption and extortion by police or military authorities; on how such complaints were addressed; on whether perpetrators had been brought to justice; on registered deaths as a result of such violence; and on whether such cases had been appropriately investigated and punishments handed down as needed. He asked what concrete measures had been taken to guarantee equality of social security for all persons regardless of their migrant status, whether migrant workers in an irregular situation were able to join trade unions, what was done to disseminate the Convention and train government employees such as border and security officials and judicial workers in its application, and what specific training events had been organized for that purpose.

16. **Mr. Pime** asked what impact the State party's membership in the East African Community Protocol on the Free Movement of Persons and Labour had on the management of migration issues in the State party. With regard to cooperation, he enquired whether the Ugandan Government worked with civil society organizations concerned with migration, particularly when negotiating and concluding agreements with other countries. He said that the Committee would also appreciate information on private recruitment agencies, including the laws and regulations governing them, the modalities for issuing and renewing their licences, complaints registered against them, inspections conducted and any penalties imposed. The delegation should comment on allegations that some agencies were involved in the trafficking and sexual exploitation of migrant workers. The delegation might also comment on what the State party was doing to minimize difficulties related to migration and to inform foreign migrant workers in Uganda and Ugandan nationals working abroad of their rights under the Convention.

17. **Mr. Haque** said that, in view of the State party's membership in the East African Community Common Market, he would like to know how the Government ensured that migrants from member States and those from other States received the same treatment, and whether membership presented a challenge for Uganda in implementing certain provisions of the Convention. He asked whether informal flows of remittances had been taken into account in calculating figures for remittances to Uganda, and how the Government encouraged the economically productive use of remittances. He asked for more information on national legislation directly related to the implementation of the Convention and enquired whether that legislation distinguished between nationals and foreigners. He requested information on the involvement of civil society in the preparation of the State party's report. He asked whether, given the varied nature of population movements in Uganda, the State party distinguished between voluntary and forced migration, including irregular migration.

18. **Ms. Dicko** asked for more information on the profile of female Ugandan migrant workers, including their age, professional qualifications and marital status. She enquired whether Ugandans who emigrated abroad were typically highly skilled workers and whether Uganda benefited from the Transfer of Knowledge through Expatriate Nationals (TOKTEN) programme. She asked whether training in the provisions of the Convention was given to public officials, judges, lawyers and law students, and how the general public, Ugandan migrant workers and foreign migrant workers living in Uganda were informed of the rights of migrant workers under the Convention.

19. **Mr. Ceriani Cernadas** requested more information on how the Directorate of Citizenship and Immigration Control addressed migration issues and how it cooperated

with other government bodies, such as the Ministry of Gender, Labour and Social Development and the Human Rights Commission. He said that he would like a more holistic overview of the State party's migration policy and the challenges presented by emigration.

20. He asked for information on consular protection for Ugandan migrant workers, particularly those detained abroad, and specific measures taken by consulates and the Ministry of Foreign Affairs to protect minors. He enquired about programmes to facilitate the reintegration of migrant workers who returned to Uganda, particularly with regard to labour market access and social reintegration, and whether measures were in place to discourage returned migrant workers from leaving Uganda again.

21. **Ms. Castellanos Delgado**, saying that she was concerned about child labour in the State party, asked why children were compelled to work, whether the parents of child workers were in many cases migrant workers residing abroad, and what efforts the Government was making on behalf of children who did not receive an education because they were working. She enquired whether statistics were available on child migrants.

22. She asked whether the State party was taking measures to ensure that Ugandan migrant workers were able to return to Uganda, and whether statistics were available on the return of such workers. She asked whether the State party had concluded bilateral agreements regulating labour migration with other States.

23. **Mr. Nuñez-Melgar Maguiña** asked which aspects of the Convention were given top priority in terms of implementation. He requested more information about consular assistance for migrants, including whether consulates had links with civil society and interacted with local communities, whether they had programmes to promote the rights of Ugandan migrant workers residing abroad, and whether there were Ugandan consulates in border areas. He asked whether bilateral agreements had been concluded with neighbouring countries to address trafficking in persons, particularly women and children, and whether Uganda possessed a legal framework regulating the activities of recruitment agencies. He asked what measures were in place to ensure that migrant workers could enjoy the same rights as nationals from the outset, and how the State party complied with its obligation under the Convention to treat migrant workers and nationals alike.

24. **Mr. El-Borai** asked whether the legal framework outlined in the State party's report was truly compatible with the provisions of the Convention, in particular with regard to migrant workers' rights regarding trade unions and social security, and whether migrant workers were able to transfer part of their earnings to their country of origin.

25. **Mr. Tall** asked whether the phenomenon of child night commuters, who fled their homes every night seeking a safe place to sleep to avoid abduction by members of the Lord's Resistance Army, had been eradicated, and whether information on the issue from alternative sources was up to date.

26. **The Chairperson**, speaking as a member of the Committee, asked whether the Anti-Homosexuality Act adopted by the State party had an impact on migrant workers in Uganda, given that migrant workers were presumably bound by the same laws as the general population. He enquired whether Ugandan migrant workers residing abroad were able to exercise their right to vote and, if not, whether the Government had plans to introduce measures to ensure their enjoyment of that right. He asked what impact outbreaks of violence in certain areas of Uganda — for example, near the Sudanese border — had on the realization of migrant workers' rights under the Convention.

The discussion covered in the summary record ended at 5.25 p.m.

United Nations CMW/C/SR.278

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
29 April 2015

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-second session

Summary record (partial)* of the 278th meeting
Held at the Palais des Nations, Geneva, on Thursday, 16 April 2015, at 10 a.m.

Chairperson: Mr. Carrión Mena

Contents

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Uganda (continued)

* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages of the United Nations. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-08386 (E) 290415 290415

1508386

Please recycle

The discussion covered in the summary record began at 11.10 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Uganda (continued) (CMW/C/UGA/1; CMW/C/UGA/QPR/1)

1. *At the invitation of the Chairperson, the delegation of Uganda took places at the Committee table.*

2. **Mr. Madada Kyebakoze** (Uganda) said that his absence the previous day had been due to transport problems, and he apologized for having been unable to attend the 277th meeting. The Ministry of Gender, Labour and Social Development, which he represented, had recently been affected by a cabinet reshuffle and many of its ministers were of very recent appointment.

3. He did not have statistics regarding numbers of migrant workers, because his technical staff had been unable to accompany him due to visa problems. The dynamics of migratory flows reflected political and socioeconomic circumstances. Until the mid-1980s many migrants had left Uganda due to political instability; since then they had tended to do so for economic reasons. Most Ugandan migrant workers went to neighbouring countries, crossing the border directly into Kenya or Rwanda. Destinations for skilled workers included the United Kingdom of Great Britain and Northern Ireland.

4. Ugandan consulates were active in the implementation of the Convention. Migrant workers could apply to consular offices for help on practical issues ranging from information about the host country to assistance in the case of lost documents. The consulates also relayed relevant information back to the Ministry of Foreign Affairs in Uganda.

5. Mechanisms were in place to inform migrant workers of their rights under the Convention. They included annual ministerial statements, advertisements in the media and pre-departure training sessions and workshops for the workers themselves. The training was organized by recruitment agencies and often attended by ministerial labour inspectors. Apart from the training, another aspect of the role of recruitment agencies was that of identifying employment opportunities and acting as intermediaries. The agencies themselves were regulated by law. Under Statutory Instrument No. 62 on Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations of 2005, agencies had to ensure that migrant workers received a written copy of the terms and conditions of their employment before they departed. Agencies were also required to communicate information on migrant workers to the relevant ministry; if they failed to do so, they risked having their licences revoked.

6. He needed to verify the numbers of health workers recruited to be sent to Trinidad and Tobago, but believed that the figures in the Committee's possession were incorrect. The Anti-Homosexuality Act no longer existed, having been annulled by the Constitutional Court. He was not aware of any cases of collective expulsion from Uganda. Under no circumstances did the law tolerate torture and violence or corruption and extortion by the authorities, against migrant workers or anyone else.

7. Interministerial committees were part of the structure of Government in Uganda and constituted the mechanism through which ministries consulted with one another in order to form public policy. As was the case in other developing countries, the gathering of statistics was a matter of concern in Uganda. To address that situation, the State had recently introduced a national ID registration initiative.

8. Uganda had launched a primary health-care campaign, preventative rather than curative in nature and focusing on such fields as immunization. It had produced positive

results in terms of life expectancy, which had increased from around 48 years in 1986 to 54 years at the time of reporting. The Government was giving priority to basic infrastructure such as electricity and roads, a move which would attract investment and create jobs.

Education in Uganda was open to everyone, including migrant workers. Legislation to combat child labour had been promulgated with an emphasis on keeping children in education. An amendment to the Children Act was before Parliament and campaigns were taking place to raise awareness among stakeholders about the dangers of child labour, also by using traditional methods of communication such as dance and drama.

9. Equality and the right to decent work were enshrined in the Constitution and in that respect migrant workers had the same rights before the law as Ugandan citizens. Under the Labour Unions Act, migrant workers also had the right to join trade unions and to participate in meetings. The Government was seeking to develop a decent work agenda; it had passed a law on occupational health and safety and instituted a policy regarding HIV/AIDS in the workplace. He foresaw that many Ugandans would take advantage of the East African Community Common Market Protocol on the free movement of persons and of workers, but it was still too early to assess its impact on migration.

10. Uganda implemented the Convention by incorporating its provisions in national law. For example, the current law on disability matters was to be amended to include the right of employment for persons with disabilities, including migrant workers. The judiciary received training in the Convention through workshops. Gathering data about remittances was problematic, especially because many migrant workers did not use established channels. He asked the Committee to give him more time to respond to questions about the involvement of civil society in the preparation of the State party report and about the profile of female Ugandan migrant workers. Apart from the fact that it was no longer required to register citizens, the functions of the Directorate of Citizenship and Immigration Control remained unaltered by recent changes to the law.

11. **Mr. Onyanga Aparr** (Uganda) said that Uganda had three consular missions for migrant workers in the Middle East: in Saudi Arabia, Iran and the United Arab Emirates.

12. **Mr. Madada Kyebakoze** (Uganda) said that training was available for migrant workers returning to Uganda in order to help with their reintegration; however, unemployment remained a challenge. The Government was implementing an action plan to combat child labour, which focused on ensuring that children remained in school, raising awareness about the issue and helping child workers to return to school. The Ministry of Gender, Labour and Social Development had recently created a department for culture and family affairs, which promoted the importance of the family unit for socioeconomic development. Family Day was also celebrated nationally to raise awareness in that regard. Statistics on numbers of returning Ugandan migrant workers would be provided at a later date.

13. Replying to the question about which aspects of the Convention were being prioritized, he said that the equal treatment of all migrant workers was a primary focus. The State party was working to guarantee fundamental rights such as freedom of expression and access to information for all. In that connection, it had established the Access to Information Act. Measures were being taken to ensure decent work; however, the minimum wage remained a significant problem.

14. **Mr. Onyanga Aparr** (Uganda) said that consular offices collaborated with some civil society organizations when it was considered necessary to do so.

15. **Mr. Madada Kyebakoze** (Uganda) said that the State party had a number of agreements with countries in the East African Community and had also initiated discussions on bilateral agreements with Middle Eastern States. The Government was working to create an environment that was conducive to the protection of the rights of

migrant workers, namely by ensuring security in the country. He confirmed that migrant workers were able to transfer their earnings to their country of origin and join trade unions. The Government was currently enhancing its social security regime to eliminate existing limitations, in particular with regard to State pensions.

16. **Mr. Onyanga Aparr** (Uganda) said that the figure cited relating to child night commuters reflected the situation prior to the end of the conflict between the Ugandan Government and the Lord's Resistance Army and was no longer relevant.

17. **Mr. Madada Kyebakoze** (Uganda) said that the courts had ruled against the Anti-Homosexuality Act. It was not yet possible for migrant workers abroad to vote in elections but that issue was being addressed. As far as the application of the Convention in regions of instability was concerned, its provisions were implemented in areas of the country where the law prevailed.

18. **Mr. Taghizadeh** said that he wished to know whether the State party intended to remove its reservation relating to article 18, paragraph 3 (d), of the Convention on the right to free legal assistance for migrant workers and their families. More precise information on the number of Ugandan migrant workers abroad was required. For instance, how were their rights, in particular the right to participate in elections, guaranteed? Lastly, further information on measures to prevent child labour, specifically with regard to the children of migrant workers in Uganda, would be appreciated.

19. **Mr. Brillantes** asked whether the State party was considering recognizing the competency of the Committee under articles 76 and 77 of the Convention. He also asked whether it intended to ratify the International Labour Organization (ILO) Migration for Employment Convention (Revised), 1949 (No. 97), the ILO Domestic Workers Convention, 2011 (No. 189) and the Protocol to prevent, suppress and punish trafficking in persons, especially women and children and Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

20. He invited the delegation to give specific examples of how non-discrimination with respect to the rights of migrants was observed. He asked what measures the Government had adopted to prevent child migrant forced labour, particularly in the areas of agriculture, fishing, mining and brickmaking and to ensure that all migrant workers and members of their families, including those with an irregular status, had adequate access to basic services and emergency medical care.

21. The delegation should provide detailed information relating to migrant workers and members of their families held in detention and the State party's implementation of the right to equality before the courts. The delegation should also provide information on the human and financial resources dedicated to detecting and eliminating trafficking and smuggling in persons as well as statistics relating to convictions, victims and related support services and awareness-raising campaigns.

22. **Mr. Pime** said that he would welcome more information on the regulation of private employment agencies, some of which were reported to have been involved in trafficking in persons and exploitation.

23. **Mr. Nuñez-Melgar Maguiña** said that his questions from the previous meeting had only been partially answered. He wished to know which aspects of the Convention were given priority in terms of implementation and which could not be implemented. He also wished to know what measures, including consular assistance, were in place in border areas to protect the interests of migrant workers; and whether the State party had bilateral agreements with neighbouring countries that had the highest rates of Ugandan migration to address the issue of trafficking in persons, especially women and children.

24. **The Chairperson**, speaking as a member of the Committee, asked whether measures were being taken to ensure the application of the Convention in areas of conflict and instability, such as the border with Sudan. Was it possible to ensure the application of the instrument in such areas?

The meeting was suspended at 12.05 p.m. and resumed at 12.30 p.m.

25. **Mr. Madada Kyebakoze** (Uganda) said that private employment agencies were subject to the requirements of the Statutory Instrument No. 62, which governed the manner in which Ugandan migrant workers could be employed abroad. Various administrative obligations had to be satisfied, such as substantiating the company's liquidity, ensuring compliance with legal requirements and registering the company with the office of the relevant State minister. Any agency that had breached the regulations could have its licence to operate revoked, as had happened recently.

26. Uganda had begun working towards ratifying several international conventions, including the ILO Migration for Employment Convention (Revised), 1949 (No. 97). Further consultation with government agents and other stakeholders would be required before a definitive answer could be provided on whether the State party would withdraw its reservation to article 18, paragraph 3 (d).

27. The Government had implemented targeted policies on the issue of forced child labour, had drawn up a National List of Hazardous Child Labour and had drafted guidelines and definitions for labour inspectors on how to identify such practices. Certain agricultural activities had often been undertaken by children and were not necessarily considered to be harmful or hazardous in Uganda; however, labour inspectors visited those enterprises to ensure that they were in compliance with the regulations.

28. In post-conflict areas, such as the border with South Sudan, the Government had launched reconstruction programmes and a broad cross section of projects to support the local population and provide access to basic utilities and other services. Various affirmative action initiatives for migrant workers and other marginalized groups, including women, children and people with disabilities, had also been launched, including government-backed education scholarships to ensure that children had the right to education and were not vulnerable to forced child labour.

29. Regarding the priority placed on certain aspects of the Convention, he said that a law on the trafficking of persons had been enacted and an interministerial committee made up of representatives from the various government ministries, as well as other public officials and relevant stakeholders, had been set up to monitor the issues affecting migrant workers. Basic health-care and social security services remained a major challenge for the entire Ugandan population and were therefore not an issue that had affected only migrant workers. As a developing nation, the Government had accorded priority to improving infrastructure, education and the economy. While some health-care services had been restored, major investment was sorely needed.

30. **Mr. Brillantes** said that the efforts and candour of the delegation in spite of the travel difficulties, the obvious time constraints and the limited data available, as well as the determination and desire shown by the State party to participate in the reporting process were commendable. However, many of the questions prepared by the Committee members had either not been answered or insufficient information had been provided. It had not been fully explained, for example, why civil society organizations had not been involved in the drafting of the current report.

31. **Mr. Taghizadeh** said it was to be hoped that, in time, the State party would withdraw its reservation to article 18, paragraph 3 (d), of the Convention, and that the issues discussed during the consideration of the report would be of assistance to the

Government when it came to developing appropriate and practical strategies, harmonizing legislation with the Convention and achieving progress in relation to the rights of migrant workers and their families.

32. **The Chairperson** said that States parties had an obligation to ensure that delegations attended treaty body meetings and he wished to know why visas had not been granted in time for the rest of the delegation. The Committee looked forward to receiving the information that remained outstanding from the State party as soon as possible.

33. **Mr. Madada Kyebakoze** (Uganda) expressed his gratitude to the Committee for their understanding of the delegation's difficulties and for the opportunity to take part in the useful dialogue. He concluded by saying that migrant workers were crucial to the development of Uganda and that the suggestions made and concerns raised during the dialogue with the Committee would be circulated and given serious consideration. Every effort would be made to provide an answer forthwith on the issue of removing the reservation to article 18, paragraph 3 (d), of the Convention.

The meeting rose at 1.05 p.m.